By Mr. AYERS of Montana: A bill (H.R. 5646) to amend the Air Mail Act of February 2, 1925, as amended by the acts of June 3, 1926, May 17, 1928, and April 29, 1930, further to encourage commercial aviation; to the Committee on the Post Office and Post Roads.

By Mr. DEAR: A bill (H.R. 5647) to provide for the commemoration of Fort Jesup, in the State of Louisiana; to the Committee on Military Affairs.

By Mr. EICHER: A bill (H.R. 5648) to provide revenue, and for other purposes; to the Committee on Ways and Means.

By Mr. CELLER: Resolution (H.Res. 145) authorizing the Judiciary Committee to inquire into and investigate the matter of appointments, conduct, proceedings, and acts of receivers, trustees, and referees in bankruptcy; to the Committee on Rules.

By Mr. GRIFFIN: Joint resolution (H.J.Res. 182) to raise additional revenue by reinstating the income-tax rates for individuals and corporations in force prior to the enactment of the Revenue Act of 1932, and in place of the increases provided by said Revenue Act of 1932, to provide a special income tax of 1 cent on each dollar of gross income for the calendar years 1933, 1934, and 1935; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BLACK: A bill (H.R. 5649) for the relief of the D. F. Tyler Corporation and the Norfolk Dredging Co.; to the Committee on Claims.

By Mr. BURNHAM: A bill (H.R. 5650) for the relief of Louis Columbus De Perini; to the Committee on Naval Affairs.

By Mr. CARY: A bill (H.R. 5651) granting a pension to Llewellyn J. S. Judice; to the Committee on Pensions.

By Mr. CELLER: A bill (H.R. 5652) to reimburse William McCool amount of pension payment erroneously deducted for period of hospital treatment; to the Committee on Claims.

By Mr. COLMER: A bill (H.R. 5653) authorizing the Administrator of Veterans' Affairs to convey certain lands to Harrison County, Miss.; to the Committee on World War Veterans' Legislation.

By Mr. LUDLOW: A bill (H.R. 5654) for the relief of Louis W. Heagy, Jr.; to the Committee on Claims.

By Mr. SIMPSON: A bill (H.R. 5655) for the relief of Mayme Hughes; to the Committee on Claims.

By Mr. WALLGREN: A bill (H.R. 5656) to authorize the appointment of Master Sgt. Joseph Eugene Kramer as a warrant officer, United States Army; to the Committee on Military Affairs.

By Mr. WILCOX: A bill (H.R. 5657) granting a pension to Hattie Yarwood; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

1053. By Mr. CARTER of California: Assembly Joint Resolution No. 25, State of California, petitioning the President of the United States and Congress to accept the cemetery situated at Sawtelle as a national cemetery; to the Committee on the Judiciary.

1054. Also, Senate Joint Resolution No. 9 of the Legislature of the State of California, relative to memorializing Congress to pass Senate bill 1197 known as "The Farmers' Farm Relief Act"; to the Committee on Agriculture.

1055. Also, Senate Joint Resolution No. 18 of the State of California, memorializing Congress to adopt legislation protecting and fostering the rubber industry of the United States; to the Committee on Agriculture.

1056. By Mr. FITZPATRICK: Resolution of Westchester County, New York District Council, United Brotherhood of Carpenters and Joiners of America, John Connelly, secretary, Tarrytown, N.Y., endorsing the 30-hour week bill; to the Committee on Labor.

1057. By Mr. FOSS: Petition of Gardner Chapter of Hadassah, protesting against the outrages and cruel discrimination perpetrated against the Jews in Germany; to the Committee on Foreign Affairs.

1058. By Mr. LEHR: Petition of Lenawee County Pomona Grange of Michigan, urging Congress to pass a law providing that all petroleum products that may be used as a fuel in internal-combustion engines shall be blended 10 percent by volume with ethyl alcohol made from agricultural products grown within continental United States; to the Committee on Ways and Means.

1959. By Mr. LUDLOW: Petition of the Congregation Ezras Achim, of Indianapolis, requesting the Government of the United States to make official protest against the treatment of Jewish citizens in Germany; to the Committee on Foreign Affairs.

1060. Also, petition of Indianapolis Zionist District of Indianapolis, Ind., requesting the Government of the United States to make official protest against treatment of Jewish citizens in Germany; to the Committee on Foreign Affairs.

1061. By Mr. MEAD: Petition of Erie County committee of the American Legion, regarding veterans' compensation; to the Committee on World War Veterans' Legislation.

1062. By Mr. ROGERS of New Hampshire: Concurrent resolution of the New Hampshire Legislature, protesting against lowering of standard of lighthouse station in Portsmouth Harbor, N.H., by the substitution of an unattended light and the elimination of the fog bell; to the Committee on Rivers and Harbors.

1063. By Mr. SWICK: Petition of Shenango & Beaver Valley District Council, United Brotherhood of Carpenters and Joiners of America, R. J. McKim, Ellwood City, Pa., secretary, urging the enactment of the 30-hour-week legislation, a suitable minimum wage, and a Federal building program to include rehabilitation of slums, elimination of grade crossings, and highway construction; to the Committee on Interstate and Foreign Commerce.

1064. Also, petition of Citizens Federation at Ambridge, Beaver County, Pa., Stephen M. Tkatch, president, James R. Istocin, secretary, urging the passage of the 30-hour week bill with substantial minimum wage under Government control; to the Committee on Interstate and Foreign Commerce.

1065. By Mr. WITHROW: Memorial of the Legislature of the State of Wisconsin, relating to allotment to the States of a part of the Federal excise tax on beer; to the Committee on Ways and Means.

1066. Also, memorial of the Legislature of the State of Wisconsin, relating to prompt action on the bill for refinancing home mortgages; to the Committee on Banking and Currency.

1067. By the SPEAKER: Petition of the city of Cleveland, requesting the Reconstruction Finance Corporation to use all reasonable haste in approving applications for loans made for the purpose of embarking upon projects for slum clearance and the providing of housing of the low-income group, if said projects are planned in the spirit of the State housing act and the Emergency Relief and Construction Act, that is, that all elements of speculation are eliminated and that the projects are actually planned for the low-income group; to the Committee on Banking and Currency.

SENATE

WEDNESDAY, MAY 17, 1933

(Legislative day of Monday, May 15, 1933)

The Senate sitting as a court for the trial of articles of impeachment against Harold Louderback, judge of the United States District Court for the Northern District of California, met at 10 o'clock a.m.

The managers on the part of the House of Representatives appeared in the seats provided for them.

The respondent, Harold Louderback, with his counsel, Walter H. Linforth, Esq., and James M. Hanley, Esq., appeared in the seats assigned to them.

The VICE PRESIDENT. The Sergeant at Arms will make proclamation.

The Sergeant at Arms made the usual proclamation.

CALL OF THE ROLL

Mr. ASHURST. I suggest the absence of a quorum.

The VICE PRESIDENT. The clerk will call the roll.

The legislative clerk called the roll, and the following Senators answered to their names:

Adams	Dickinson	Logan	Stephens
Ashurst	Fess	McGill	Thomas, Utah
Austin	Fletcher	Murphy	Trammell
Bachman	Frazier	Neely	Vandenberg
Bratton	George	Norris	Wagner
Brown	Hale	Patterson	Walsh
Capper	Hebert	Pope	White
Caraway	Kean	Robinson, Ark.	
Clark	Keyes	Robinson, Ind.	
Cutting	King	Smith	

Mr. ROBINSON of Arkansas. I desire to announce that the Senator from North Carolina [Mr. REYNOLDS] is detained from the Senate by illness. I will let this announcement stand for the day.

Mr. FESS. I wish to announce the senior Senator from Oregon [Mr. MCNARY] and the junior Senator from Oregon [Mr. STEIWER] are detained on official business.

I desire further to announce that the Senator from Pennsylvania [Mr. REED] is detained by a meeting of a committee of conference between the two Houses.

The VICE PRESIDENT. Thirty-seven Senators have answered to their names. A quorum is not present. The clerk will call the names of the absent Senators.

The legislative clerk called the names of the absent Senators, and Mr. BLACK, Mr. HASTINGS, Mr. SHEPPARD, and Mr. VAN NUYS answered to their names when called.

Mr. GORE, Mr. DUFFY, and Mr. BULKLEY entered the Chamber and answered to their names.

The VICE PRESIDENT. Forty-four Senators have answered to their names. A quorum is not present.

Mr. ASHURST. I move that the Sergeant at Arms be directed to request the attendance of absent Senators.

The VICE PRESIDENT. The question is on the motion of the Senator from Arizona.

The motion was agreed to.

The VICE PRESIDENT. The Sergeant at Arms will carry out the order of the Senate sitting as a Court of Impeachment.

Mr. BAILEY, Mr. BARKLEY, Mr. BULOW, Mr. BYRD, Mr. BYRNES, Mr. CAREY, Mr. CONNALLY, Mr. COOLIDGE, Mr. COPELAND, Mr. COSTIGAN, Mr. COUZENS, Mr. DILL, Mr. ERICKSON, Mr. GLASS, Mr. GOLDSBOROUGH, Mr. HARRISON, Mr. HATFIELD, Mr. HAYDEN, Mr. KENDRICK, Mr. LA FOLLETTE, Mr. LEWIS, Mr. LONG, Mr. MCADOO, Mr. MCCARRAN, Mr. MCKELLAR, Mr. METCALF, Mr. NYE, Mr. PITTMAN, Mr. RUSSELL, Mr. SCHALL, Mr. SHIPSTEAD, Mr. TOWNSEND, Mr. TYDINGS, Mr. WALCOTT, and Mr. WHEELER entered the Chamber and answered to their names.

The VICE PRESIDENT. Seventy-nine Senators have answered to their names. A quorum is present. The managers on the part of the House will proceed.

TESTIMONY OF W. S. LEAKE

Mr. Manager BROWNING. Mr. President, we desire at this time to offer the testimony of W. S. Leake as given before the committee last September and about which a stipulation was made. Our purpose in renewing the application is for the sake of orderly presentation of the case and saving of time. We think it is very necessary that this testimony be read at this time, subject to any additional testimony he may want to give or the respondent may want to offer from him when he appears, if he does appear.

The VICE PRESIDENT. Is there any objection on the part of counsel for the respondent?

Mr. HANLEY. Yes, Mr. President. The testimony given by Mr. Leake at the hearing had in San Francisco will not be necessary if he is here as a witness. Why read it? He may be here. If the managers on the part of the House will agree to take the deposition of Leake, as we offered, in San Francisco, we can do it on next Saturday and have it returned on next Tuesday. We are agreeable to that. But to piecemeal it and to comment on it and put other witnesses on the stand before the witness actually gives all his testimony is not fair on behalf of the managers, from our point of view.

The VICE PRESIDENT. Let the Chair see the stipulation which was entered into. The clerk will read the stipulation.

The legislative clerk read as follows:

It is further stipulated that the testimony of W. S. Leake and Miriam McKenzie, hotel maid, taken at the hearing above referred to, may be read upon said trial by either party hereto with the same force and effect as if said witness were present and testified in person. This stipulation, however, insofar as the said W. S. Leake is concerned, is without waiver by either party hereto to insist upon the attendance of said Leake before the court above referred to, and shall become operative only in the event of the nonappearance of the said Leake at Washington before the said Court of Impeachment.

Dated May 3, 1933.

GORDON BROWNING,
RANDOLPH PERKINS,
For the House Managers.
WALTER H. LINFORTH,
JAMES M. HANLEY,
Attorneys for Respondent.

The VICE PRESIDENT. The Chair overrules the objection. It seems to the Chair that reading the testimony, in view of the fact that Mr. Leake may be present in the Chamber, will not injure the cause of the respondent in any way.

The testimony of Mr. Leake was read by Mr. Manager BROWNING and Mr. Manager PERKINS, as follows:

Mr. W. S. Leake, being first duly sworn by the chairman, testified as follows:

Direct examination by Mr. LAGUARDIA:

Q. What is your name?—A. W. S. Leake.

Q. Where do you live, Mr. Leake?—A. San Francisco, Fairmont Hotel.

Q. What is your business?—A. I am in no business, sir.

Mr. LAGUARDIA. Do you want to adjourn at this time?

Mr. HANLEY. We have had a long day.

Mr. SUMNERS. I understand counsel is tired. May I announce that tomorrow morning when we convene, which I believe it is agreed shall be at 10 o'clock, we shall convene——

Mr. HANLEY (interrupting). Whatever place and time you state is agreeable to us.

Mr. SUMNERS (continuing). We will convene in this chamber. We are now in recess until tomorrow at 10 o'clock.

HOUSE OF REPRESENTATIVES,
SPECIAL COMMITTEE OF THE COMMITTEE ON THE JUDICIARY,
San Francisco, Calif., Wednesday, September 7, 1932.

MORNING SESSION

The hearing reconvened at 10 a.m. in room 214, Federal Building, the place of the previous session, Hon. HATTON SUMNERS presiding.

Mr. W. S. Leake, having previously been sworn, testified on further direct examination, as follows:

By Mr. LAGUARDIA:

Q. Mr. Leake, the last question last night when we adjourned I asked you what was your business. Your reply was, "I am in no business, sir." Is that correct?—A. Yes, sir.

Q. What do you do for a living?—A. I help humanity.

Q. Is that lucrative?—A. It is not.

Q. I can't hear you.—A. I will speak louder, sir.

Q. Please.—A. All right, sir.

Q. Now, just how do you earn a living?—A. I am a metaphysical student.

Q. Do you earn a living by being a student?—A. Yes, sir.

Q. Well, will you explain that, please? Just what do you do? What is your source of income, if any?—A. People come to me for metaphysical treatment.

Q. Yes?—A. I treat them.

Q. Do they pay you?—A. Sir?

Q. Do they pay you?—A. No, sir; I have no fees.

Q. I take it that you are licensed to practice medicine under the authority of the State of California?—A. I am not a medical practitioner.

Q. Oh, I understood you treated people—do you?—A. What is that?

Q. Do you treat sick people?—A. Yes, sir—no, I don't treat sick people, because there is no such thing as a sick person.

Q. No such thing as a sick person?—A. No, sir.

Q. Well, then, just what do you do to these people who come to you?—A. I give them metaphysical treatment.

Q. Explain that. I don't quite understand what it is.—A. It keeps people right thinking.

Q. Right thinking?—A. Yes, sir.

Q. Is Judge Louderback one of your patients?—A. He is not.

Q. Oh. Now, you say you have no fee when you teach these people how to think.—A. I never charge or have any fees at all. People who wish to make donations are welcome to do so.

Q. Therefore your source of income and your livelihood depend on what people want to give you; is that right?—A. That is correct, sir.

Q. And you have been in that habit all your life, have you, Mr. Leake?—A. No, sir.

Q. Now, how much do you average a month in these contributions?

Mr. HANLEY. Gentlemen, is that so material for this record?

Mr. LAGUARDIA. Very, I can assure you, and you, Mr. Chairman. If it is not, I will move to strike it out myself.

Mr. SUMNERS. The chairman will establish the materiality. On that understanding the testimony is admissible; otherwise it will be stricken out.

Mr. LAGUARDIA. Of course.

Q. Is Mr. Hunter one of your subjects?—A. No, sir.

Q. Is Mr. Gilbert one of your subjects?—A. Yes, sir.

Q. How long has he been one of your subjects?—A. Oh, several years.

Q. Does he contribute to you?—A. I think he made one contribution some time ago, 2 or 3 years ago. His wife has been a patient a long time.

Q. Does he pay you for advice to his wife?—A. Does he pay? No; the wife pays her own contribution.

Q. So that you have a source of income from the Gilbert family, have you not?—A. To that extent; yes.

Q. You knew that I examined Mr. Gilbert this morning; did you know that?—A. No, sir.

Q. I will let you have his testimony at noon, if I can, to refresh your memory on that. You realize you are testifying under oath, do you not?

Mr. HANLEY. Oh now, I submit that is a gratuitous insult to a member of one of the oldest families in California. You should be more familiar with our people than that, Mr. LaGuardia.

Mr. LAGUARDIA. I have been here only a few days, and I know him.

Mr. HANLEY. Back in New York you know some people, but you don't know Sam Leake.

Mr. LAGUARDIA. You will be surprised how well I know some people, before this is over.

Mr. HANLEY. Maybe you knew a lot of people when you ran for mayor in New York.

Mr. LAGUARDIA. Why bring that up?

Mr. SUMNERS. Gentlemen, you will not engage in altercation.

Mr. HANLEY. We have heard that bunk before, Brother LaGuardia.

Mr. LAGUARDIA. You did not treat Judge Louderback, did you?

Mr. HANLEY. Object to that on the ground it is a gratuitous insult. I submit that it is incumbent upon a man, who ought to come here simply as a judge advocate to bring out facts, not to criticize, because he may be in the position of a judge in this matter, if anything would go the committee finally to determine, and, therefore, he ought to keep within the bounds of what we consider out in the West as decent.

Mr. SUMNERS. The Chair will endeavor as best he can to properly hear this examination, and if counsel are to engage in private conversation we will not be able to examine in the time that is reasonable for this hearing.

By Mr. LAGUARDIA:

Q. Now, Leake, is Mr. Shortridge, Jr., one of your subjects or patients?—A. He has been; also his mother.

Q. Does the Shortridge family also make contributions for this advice or treatment?—A. They have.

Q. Now, what is your income; how much do you make a year?—A. Oh, probably $2,400 or $2,500.

Q. No more than that?—A. I don't know—at times—just now I am not making anything. I treat 20 to 30 people a day and never take anything, because they haven't got it. They tell me in advance they haven't got it.

Q. Is any one of the Hunter family your patients?—A. No, sir.

Q. Have you received any contributions from the Hunter family?—A. I have not.

Q. How long have you known Mr. Hunter?—A. Well, I have known him around the hotel there for several years, but not intimately.

Q. For how many years have you known him?—A. Well, I would say 5 or 6 years.

Q. Where do you live, Mr. Leake?—A. Fairmont Hotel.

Q. How long have you lived there?—A. I believe about 20 or 25 years.

Q. How long has Mr. Hunter been living there?—A. Well, I am not sure about that; I could not tell you the date. The little baby was born there. If I knew how old the baby was, I might be able to tell you.

Q. Now, you say that you have known Mr. Hunter all of the time that he is living at the Hotel Fairmont?—A. Oh, as long as I remember I know him to be there, and finally we got to speaking to each other, but I have never known him intimately.

Q. How long have you known Judge Louderback?—A. Well, I have known him all his life, mostly; when he was away to school; I have known him quite well since the World War—when he came back from the World War.

Q. You have been very intimate with Judge Louderback, haven't you?—A. Yes; recently.

Q. You have seen him very often, have you not?—A. Quite often.

Q. In fact, you are around his office quite a bit; isn't that true?—A. What is that?

Q. You visit him in his chambers, do you not?—A. I have never been in his chambers since the time he was sworn in.

Q. You knew him when he was a superior court judge here in California, did you not?—A. I did.

Q. Did you know him very intimately then?—A. No more than I did most of the other judges.

Q. Would you say that you knew the other judges as well as you knew Judge Louderback?—A. Well, I did not see him as often. I did not know Judge Louderback as well as I knew Judge Gilbert.

Q. Where is Judge Gilbert now?—A. Judge Gilbert is dead.

Q. Now, did you inform Mr. Hunter that he had been selected as receiver in the Russell-Colvin case?—A. I did not.

Q. Did you have any conversation with Mr. Hunter that Judge Louderback wanted to know whether or not he could serve as receiver in that case?—A. I did.

Q. What did you say to Mr. Hunter?—A. I was sitting in the lobby of the Fairmont Hotel. I could not tell you the day of the week nor the month nor the year, but I know about the time of day, because that is my usual habit, to sit in a certain chair there. Judge Louderback came in and seemed to be somewhat disturbed. He sat down and told me of something that he had transacted over in his court or chambers, I don't know which, in reference to the Russell-Colvin case. He told me of the conversation and misunderstanding that he had had with some man by the name of Strong, and he asked me if I knew of anybody who was an expert in stocks and bonds and banking matters of that kind, and I told him that I could not recall anybody at that moment. I said, "How soon must you know?" He said, "I would like to know by tomorrow morning." "Well", I said, "give me time to think, because I don't want to recommend anybody or speak of anybody that I don't know is competent, because I can realize that it must be a man that understands that business."

While we were talking Mr. Hunter walked through the lobby over near the clerk's desk. I said, "There is the man that you should have, if you can get him." He said, "who is he?" I said, "Mr. Hunter", and I said, "He has just been selected by, I think, Cavalier & Co., as their manager or something, and I don't know whether you could get him, but he is a man that would fill the bill if you can get him." He said, "Ask him if he can take it, if he can be spared from his company." I went over and asked Mr. Hunter, after stating briefly what had taken place, I said, "Are you in a position to take the receivership if it is offered to you?" He said, "I don't know; I can't tell until I see the boss." I said, "Who is the boss?" and he told me, "Cavalier." I said, "When can you see him?" He said, "I can see him tomorrow morning." I said, "Will you see him and let me know whether they will permit you to come or not?" I did add this, however, I said, "It looks like a matter that concerns the stock exchange" and I said, "I think your boss would be very glad to loan you if he could."

Some time the next day, I don't know whether it was in the morning or in the afternoon, but some time the next day he called me up and told me that his boss had given him permission, that they would loan him to Judge Louderback, or words to that effect, and I told the man to go and see Judge Louderback, and there my transaction ceased.

Q. That was the only conversation that you had with Judge Louderback concerning Mr. Hunter?—A. That is all, sir.

Q. And that is the only conversation that Judge Louderback had with you concerning Mr. Hunter?—A. I don't recall whether he told me that he had appointed Mr. Hunter or whether I read it in the paper or what, now, sir. It was a matter that did not concern me and I did not tax my memory with it.

Q. Now, Mr. Leake, have you testified everything that you have told Judge Louderback concerning Mr. Hunter?—A. Yes; everything that I can recall. There is nothing else for me to say. Oh, I did say this—I want to be as near correct as I can—he asked if Hunter was the man that had participated in a receivership, I think, across the bay somewhere, and I told him that I had read in the papers something about it or heard about it some way, and he said, "I know about this case", he said, "I know he handled that case well, and he would fill the bill." I told him that he was connected with John Drum's bank—that is the way I put it, because I had heard Hunter tell the audience there many times about buying branch banks, and I heard him talking stocks and bonds until I got dizzy.

Q. It made you dizzy?—A. Well, I don't know anything about stocks and bonds, but I heard so much about it it made me dizzy.

Q. You were not thinking right. Perhaps you needed some of your own treatment.

Mr. HANLEY (interrupting). Don't let's get that nasty way of insulting the witness.

Mr. LAGUARDIA. I heard that last night from you.

Mr. HANLEY. I know, but he is a venerable old man, whom we greatly respect in this town.

Mr. LAGUARDIA. What do you want me to do, hug him?

Mr. HANLEY. No; I don't want you to hug him, I want you to treat him decently.

The WITNESS (interrupting). I have written four volumes on right thinking, Mr. LaGuardia, and I will be very glad to present you with a set of them.

Mr. LAGUARDIA. Well, present a set to the judge, too.

A. What?

Q. Will you give the judge a copy, too?

Mr. SUMNERS (interrupting). Gentlemen, you must cease this.

Mr. LAGUARDIA. Now, prior to that conversation, Judge Louderback had never spoken to you about Mr. Hunter, is that correct?—A. Never. I don't know that he ever mentioned his name to me.

Q. And you never mentioned his name to Judge Louderback?—A. No occasion for it.

Q. And Judge Louderback did not know Mr. Hunter up to that time?—A. I didn't know that.

Q. Didn't he say, "Who is that?" when you said, "There is a man passing, there is the man you want?"—A. I don't know. You asked me if he knew him. I don't know if he knew him or not.

Question. Didn't he ask you who Hunter was?—A. He said, "Who is it?" and I said, "Mr. Hunter."

Q. But he did ask you to recommend a man to him?—A. He asked me if I knew a man. I made no recommendation to anybody.

Q. Let's get right to the point. He asked you if you knew a man that would fit the requirements, did he not?—A. Yes, sir.

Q. And then you stated to him, "I don't know for a moment; let me think it over for a day or so", didn't you?—A. No; that was the next morning.

Q. And just as you were thinking it over Mr. Hunter walked through the hotel lobby?—A. Yes, sir.

Q. And you said, "There is your man"; is that corect?—A. That is about correct, and if Mr. Hunter had not walked through there I doubt whether I would ever have thought of him in trying to find a man.

Q. But the fact is, Judge Louderback did appoint Mr. Hunter?—A. As I understand it; yes, sir.

Q. Now, you informed Judge Louderback that Mr. Hunter was in the employ of Cavalier & Co., did you not?—A. I did.

Q. And you told the judge that Cavalier & Co. were members of the stock exchange, didn't you—didn't you so testify?—A. I don't think I told him that.

Q. Well, I am sorry to—didn't you so testify a moment ago?—A. No; I testified that I said before Mr. Hunter that I thought that they would be interested in getting the right kind of a man to help this matter out on account of being on the stock exchange.

Q. Exactly.—A. That is what I meant to say, and I think I did say it.

Mr. LAGUARDIA. I think you are right.

The WITNESS (continuing). But I did not say it to Judge Louderback.

Q. But, of course, you would not recommend to Judge Louderback any person you did not think was fit, would you?—A. I certainly would not.

Q. Now, after that time—— A. (interrupting). And I wish to state that I did not do it in the capacity of recommending anyone. I told him of his qualifications.

Q. After he requested it?—A. Yes.

Q. He asked you if you had someone in mind?—A. He asked me if I could think of anybody that would fill the bill.

Q. Exactly. Now, did Judge Louderback ask you on any other occasion if you knew of anyone who would fill the bill when he needed receivers?—A. No; I have no recollection of him ever asking me any question about receivers.

Q. But you had known Mr. Gilbert for several years, hadn't you?—A. I had known Mr. Gilbert for some years; yes.

Q. And Mr. Gilbert had been appointed on four occasions receiver by Judge Louderback; you knew that, didn't you?—A. I do not know how many.

Q. You know he had been appointed receiver?—A. Yes.

Q. And you have known Mr. Samuel Shortridge, Jr., for a long time?—A. Since he was born.

Q. And you know that he has been appointed receiver by Judge Louderback?—A. I so understand.

Q. Now, did you ever discuss details of the receivership with Mr. Hunter?—A. No, sir.

Q. Did Mr. Hunter advise you as to investments from time to time?—A. I never had anything to invest. Nobody ever advised me.

Q. I didn't get that.—A. I said I have never been advised about any investments, because I have nothing to invest.

Q. Well, hadn't you had some stock dealings?—A. No, sir.

Q. At no time?—A. I never owned a share of stock in my life, except when I was a telegraph operator. That is when I had bought some Ophir mining stock. That has been a great many years ago. I was nothing but a boy.

Q. So you had no business dealings with Mr. Hunter at all?—A. None whatever.

Q. Have you a bank account?—A. No, sir.

Q. No bank account at all?—A. No, sir.

Q. Savings or checking, or otherwise?—A. No, sir.

Q. Have you a safe-deposit vault?—A. No, sir.

Q. Where does Judge Louderback live?—A. Where does he live?

Q. Yes.—A. I understand that he lives in—I forget the street—in Contra Costa County, with Prof. George Louderback. I know that he votes there; registers there. He told me he voted there, although I have never been with him.

Q. Well, he doesn't actually live there when court is in session, does he?—A. I don't know where he lives; I don't know what his habits are.

Q. Where does Sam Shortridge, Jr., live?—A. I could not tell you that.

Q. Where does Mr. Gilbert live?—A. Let's see; I forget the name of the apartment house, but I think it used to be called the "Bradbury." It is on California Street somewhere. I have never been in his house.

Q. You have never been there?—A. No, sir.

Q. Don't you visit your patients?—A. When they require it; but it is not necessary for me to even see a patient to treat them. The most successful healings I have ever performed—and, by the way, when I say "healing" I don't mean I am a healer, but that is a term which is used which is not correct. There is but one health. God is the only healer. But the most successful healing, if you want to call it that——

Mr. SUMNERS (interrupting). You need not go into that.

Mr. LAGUARDIA. I wish he would.

The WITNESS (continuing). Are people that I have never seen.

Mr. LAGUARDIA. Mr. Chairman, I should like to ask the question. I think the witness, in all fairness to him, ought to be given every opportunity to describe his means of livelihood. I hope——

Mr. SUMNERS (interrupting). I don't think the method of treatment belongs in this case.

Mr. LAGUARDIA. I know, but it is very important, Mr. Chairman. I will ask that the witness be allowed to state, and to be given all the latitude he needs, to explain his method of treatment, which is his only livelihood, and Mr. Hanley has told us he is a venerable old gentleman of the community——

Mr. SUMNERS (interrupting). If you want to make your statements you can, but you don't have to.

The WITNESS. I don't want to do it, then. I don't want to tell anything I don't have to tell. I am here to answer any questions that are asked me.

By Mr. LAGUARDIA:

Q. Well, Mr. Leake, I have repeatedly referred to healing or treatments. Now, I want to use the right word. Now, what is it that you do; is it healing, or treating, or what, so that I may question you properly?—A. I treat, and treating is to bring people to the state of right thinking.

Q. And that is what you advise when you advise your patients, how to think?—A. Yes.

Q. Do you know John Douglas Short?—A. Yes, sir.

Q. How long have you known him?—A. Not very long.

Q. How did you happen to meet him?—A. I think his father-in-law, Mr. Hathaway, introduced me to him. I think I met him through his little children.

Q. Where do his little children live?—A. At his home, but they visit the grandfather at the hotel quite often.

Q. Oh, Mr. Hathaway?—A. Mr. Hathaway; yes, sir.

Q. Mr. Hathaway is with the Mutual Insurance Co.?—A. Mutual Life Insurance, of New York.

Q. And how long have you known Mr. Hathaway?—A. I would say some time in the eighties in Sacramento.

Q. And Mr. Short is Mr. Hathaway's son-in-law, is he?—A. Yes, sir.

Q. And you know Mrs. Short, then, of course, if you have known Mr. Hathaway since the eighties?—A. Yes, sir; I met her occasionally in the lobby.

Q. Does Mr. Hathaway live at the Fairmont?—A. Mr. Hathaway; yes.

Q. How long has he lived at the Fairmont?—A. Quite a few years, but I would not like to say the length of time.

Q. Now, did you recommend Mr. Short to Judge Louderback?—A. No, sir.

Q. As a matter of fact, you know that Mr. Short is Mr. Hunter's counsel in this receivership we are talking about?—A. Yes, sir.

Q. You do know that?—A. Yes, sir; I read the papers, and I have known it.

Q. Is Mr. Short one of your—what shall I say—subjects?—A. Say whatever you like, I will know what you mean.

Q. Is he one of your patients?—A. No, sir.

Q. Is Mr. Short one of your patients?—A. No, sir.

Q. Is Mr. Hathaway one of your patients?—A. Yes, sir.

Q. How long has he been one of your patients?—A. Over a period of a good many years.

Q. Does he contribute from time to time?—A. Yes, sir.

Q. Now, do you know Marshall Woodworth?—A. Yes, sir.

Q. How long have you known him?—A. I knew him since he was messenger for Judge Hoffman.

Q. Is he one of your patients?—A. No, sir.

Q. A good friend of yours?—A. He gives me credit for having him appointed United States district attorney. I have never claimed that honor, but he gives me credit for it. I have known him that long and that well.

Q. Oh, at any time were you engaged in politics?—A. Sir?

Q. Were you engaged at any time, or interested, in politics?—A. I have been interested in politics all my life, and I believe the time will come when I never will be disinterested in it.

Q. So he gave you credit for having him appointed, then, United States attorney?—A. Yes, sir.

Q. When was he United States attorney?—A. I forget the year. I was then manager of the San Francisco Call.

Q. That is some time ago?—A. Yes, sir; a long time ago.

Q. Now, he has also been the recipient of Judge Louderback's appointment, hasn't he?—A. I understand so.

Q. Now, do you know the Dinkelspiel boys, of Dinkelspiel & Dinkelspiel?—A. I do not.

Q. You don't know them?—A. I don't remember of ever seeing them.

Q. Does Judge Louderback live at the Hotel Fairmont?—A. Does he live there?

Q. Yes.—A. Well, he sleeps there at times. In order to explain that matter, I have got to remember a little bit of my sorrow, which I regret, but I will have to do it. My wife was ill for over 3 years, deathly ill, and it had been my habit for a long time to take a cat nap at 4 o'clock in the afternoon, and on account of her illness and the nurse being present, she advised me to get a room in the bachelors' quarters of the Fairmont Hotel, with a couch in it, where I could have my rest, and I got the room. Some time

after that—I don't know just how long—Judge Louderback came to me and told me that he had had some difficulty with his wife, Mrs. Louderback, and that he had left home, and that he wished to get in a hotel somewhere where there would be no publicity, because he did not know what the final result might be. I asked him if he could not fix the thing up some way, and he said that he did not know; that he wanted to get somewhere where there would be no publicity. I told him about this room. I said, "I am willing you should keep this room if you like; it is a cheap room, with nothing but a couch in it", and he said, "All right; I will take that room", and he did take it, and he has had it ever since.

My wife's illness got so bad that she would not permit me to leave the room, and I took a couch into the room every night and slept in there with her and the nurse. Since she passed away—(pause)—I have not been in that room, but every month Judge Louderback has given me a check for the price of that room and for his meals, if he took any, or his tailor work, or anything of the kind, and that check I endorsed and turned it into the hotel I have never paid one nickel for Judge Louderback's staying at the hotel.

Q. That room is room 26, isn't it?—A. Twenty-six; yes, sir.

Q. You took that room in September 1929?—A. I don't recall the date.

Q. The hotel records indicate that?—A. I had been sleeping in other rooms before I took that. For instance, the room next to us. But I could not always get that room, because that would be occupied, so I slept in a number of rooms there.

Q. We are just talking about room 26 now. You took that about September 1929?—A. I could not tell you the date, sir.

Q. Well, it was in 1929, wasn't it?—A. I could not tell you that.

Q. Well, the room is in your name?—A. Yes, sir; it was my room—to my knowledge.

Q. What is the charge on that room?—A. $75 a month.

Q. And it is charged to you?—A. Yes, sir.

Q. Now, so you were not exactly accurate when you told us a few moments ago that Judge Louderback lives at Contra Costs?—A. I said that was his residence.

Q. But he actually lives at the Hotel Fairmont?—A. He would have to answer that question himself. I don't keep track of him. There are times that I don't see him for a week at a time.

Q. Now, you say that you paid the hotel with Judge Louderback's checks?—A. Yes, sir.

Q. There is no mistake about that?—A. No, sir, Mr. LaGuardia; now there might be 1 or 2 times when Louderback was away on a vacation, or holding court or something, when there might be 1 or 2 cases. I won't be so positive about every time, but that is the general rule. I don't know that there is a single instance, but it could be that way now. I did not tax my memory with it.

Q. But you are quite certain that as Judge Louderback would turn a check over to you, you in turn would endorse it over to the hotel?—A. The minute I came to the hotel.

Q. So that the checks would show that?—A. Yes, sir—should show it.

Q. Exactly. Now, how much is your room?—A. $100 a month. It has not always been that. When I first went there I paid $75 a month for it. Prices have been raised on some rooms, but not in mine.

Q. You are in the habit of paying the Hotel Fairmont in cash?—A. Yes, sir.

Q. With the exception of Judge Louderback's checks?—A. Yes.

Q. And there is no question about that—you are sure of that, Mr. Leake?—A. Except, I say, there might be one or two instances when he was away on a vacation.

Q. What do your bills run to a month at the Hotel Fairmont?—A. Well, probably, with my paper bill, which is $2.30, and telephone, and a few things like that, something over $100 a month.

Q. In addition to your room?—A. Yes, sir.

Q. Mr. Leake, do you keep books of account?—A. No, sir.

Q. Do you keep any memorandum of your income and disbursements?—A. No, sir.

Q. You have an office, have you not?—A. Yes, sir.

Q. How much rent do you pay there?—A. $72.

Q. Have you any employees?—A. No, sir.

Q. And you keep no rough memorandum of disbursements and expenditures?—A. No, sir. I keep the vouchers, the office rent; they give a receipt for it.

Q. Can you tell me just how much Mr. Hathaway has contributed to you in the last few years?—A. Well, I could not tell you with any degree of accuracy. He has been quite liberal with me. I would say 500 or 600, maybe 700 or 800 dollars, covering quite a period.

Q. Can you tell me approximately how much you got from the Gilbert family?—A. Well, I don't know; probably—Mrs. Gilbert came to me for quite a very long time. I would say, roughly, $200 or $300, maybe.

Q. Do your patients or subjects pay you in checks?—A. Sometimes they do and sometimes they do not.

Q. Could you tell which patients paid you in checks and which patients paid you in cash?—A. No; I could not tell you that.

Q. Did Mr. Hathaway pay you in cash or in checks?—A. Well, I don't know; maybe both—I don't know.

Q. Did Gilbert pay you in cash?—A. I think Gilbert gave me a check once, I am quite sure he gave me a check, but I think Mrs. Gilbert always paid in cash.

Mr. LAGUARDIA. Mr. Chairman, I want to reserve the right to recall this witness at a later date.

Mr. SUMNERS. Very well.

Mr. LAGUARDIA. Then I am finished with him at this time.

Mr. HANLEY. We won't ask any questions at this time. We will wait until he is recalled.

The WITNESS. Will I have time to go back and see about some matters?

Mr. SUMNERS. Yes; you are excused, Mr. Leake.

The WITNESS. If you phoned me, I can get over here very quickly.

Mr. SUMNERS. Yes; we will telephone you.

The WITNESS. I thank you.

Mr. Manager PERKINS. At this point a recess was taken for 20 minutes.

Mr. Manager BROWNING. Mr. President——

Mr. HANLEY. Will it be stipulated at this time, so that the Senate will not be asked if there was anything else, that this witness was never recalled at that hearing?

Mr. Manager PERKINS. It will be stipulated that the witness was not recalled by the examiners or recalled in favor of the respondent.

Mr. HANLEY. You know that we introduced no testimony at the hearing out in San Francisco, Mr. Manager, do you not? You understand that, do you not, Mr. Manager?

The VICE PRESIDENT. Counsel for the respondent will address the Chair with reference to statements to be made to the Senate.

Mr. HANLEY. Pardon me, Mr. President.

TESTIMONY OF MIRIAM M'KENZIE

Mr. Manager BROWNING. Mr. President, we desire now, under the stipulation, to read the testimony of Miriam McKenzie, the hotel maid.

The VICE PRESIDENT. Proceed.

The testimony of Miriam McKenzie was read by Mr. Manager Perkins, as follows:

Miriam McKenzie, being first duly sworn by the chairman, testified as follows:

Direct examination by Mr. LAGUARDIA:

Q. What is your name?—A. Miriam McKenzie.

Q. And where do you live, Miss McKenzie?—A. 1272 Waller Street.

Q. Where do you work, Miss McKenzie?—A. I am chambermaid at the Fairmont Hotel.

Q. You are chambermaid at the Fairmont Hotel?—A. Yes.

Q. And what floor have you?—A. The upper California floor.

Q. Is room 26 in that division?—A. Yes, sir.

Q. You take care of room 26?—A. I take care of room 26.

Q. How long have you been a maid in the Fairmont Hotel.—A. Two years past in May of this year.

Q. You were there all of 1930 and all of 1931; is that it?—A. Yes.

Q. Have you had charge of room 26 all of this time?—A. Yes, sir.

Q. Who occupies room 26?—A. Judge Louderback.

Q. The gentleman sitting at the table?—A. Yes, sir.

Q. And he lives in that room?—A. Yes.

Q. And he lived in that room all of the time that you have been there?—A. Yes, sir.

Q. And you make his bed every day and fix the room every day, and it has been occupied every day?—A. Yes, sir.

Mr. LAGUARDIA. That is all.

Cross-examination by Mr. HANLEY:

Q. You don't mean to say, Miss McKenzie, that the judge has occupied that room every day, do you?—A. Not every day. He has been away some days. Not every day; but that is his permanent room.

Q. I don't get that.—A. He is permanent at the Fairmont Hotel.

Q. He is permanent at the hotel?—A. Yes, sir.

Q. In other words, he occupies that room when he is there?—A. Yes.

Q. And how often he occupies it during the week you don't know, do you?—A. Yes, sir; I take a list of that every morning.

Q. And he was in the hotel during all the time——A. (interrupting). Two years past in May, I think.

Q. Were you there when he was over in Japan?—A. Yes, sir.

Q. Well, he didn't occupy it then, did he?—A. No; he didn't occupy it then.

Q. Do you know when he was away then?—A. Sometime in the summer.

Q. What year?—A. Last year.

Q. And do you know that he is away at Eureka and Sacramento?—A. Yes, sir.

Q. Now, do you know what month he was away in any of the times in these 2 years?—A. I take a list of it every morning.

Q. I didn't get that.—A. Every morning I took a note of it.

Mr. SUMNERS. She makes a note every morning?

The WITNESS. I take a note of the rooms every morning.

By Mr. HANLEY:

Q. When he was away?—A. Yes, sir.

Q. Can you tell offhand any time he was away during the last 6 months?—A. Well, I cannot be certain, but I used to take a list of it, you know.

Q. Don't you know that during the last month he was away for about 2 weeks?—A. Yes, sir; and I marked on the list "Away."
Q. What you mean to say is that the judge occupies room 26 when he is there; is that the idea?—A. When he is there; that's the idea.
Mr. HANLEY. That is all.
Redirect examination by Mr. LAGUARDIA:
Q. And nobody else occupies that room?—A. No, sir.
Q. It is Judge Louderback's room?—A. Yes.
Mr. LAGUARDIA. That is all. Thank you.

Mr. Manager BROWNING. Mr. President, unfortunately the hotel auditor of the Fairmont Hotel was operated on this morning at 2 o'clock for appendicitis, and I understand is in a very serious condition. He was subpenaed here with certain records of the Hotel Fairmont, those of Mr. Leake, from about 1928 up to the present for his personal room, and those of Judge Louderback's room, no. 26, from about the same period; and also the telephone sheets, the originals, from the hotel for the days of March 11, 1930, and March 13, 1930. We should like to inquire if we will not be permitted at this time to produce those records and have them inserted at this point, regardless of the absence of the witness who was to make identification and who brought them along.

The VICE PRESIDENT. Does counsel for the respondent agree to the request made by the managers on the part of the House?

Mr. LINFORTH. We should like to add this, Mr. President, that if counsel will, during the recess, take up with us the question of what they have and let us see just what it is, we no doubt may be able to come to some agreement, but we should not like to say, one way or the other, without first seeing what the managers have in the way of records.

Mr. Manager BROWNING. We shall be very glad to submit them at the first recess.

Call Lloyd W. Dinkelspiel.

EXAMINATION OF LLOYD W. DINKELSPIEL

Lloyd W. Dinkelspiel, having been duly sworn, was examined and testified as follows:

By Mr. Manager BROWNING:

Q. You are Lloyd W. Dinkelspiel?—A. Yes, sir.

Q. Where do you live?—A. San Francisco, Calif.

Q. What is your profession?—A. Attorney at law.

Q. With what firm are you connected?—A. Heller, Ehrmann, White & McAuliffe.

Q. In the early part of March 1930, were you interested in the receivership of the Russell-Colvin Co., in that city?—A. Yes, sir; I was called in by the San Francisco Stock Exchange. In the week preceding March 10, at a meeting of the board of governors, at which the affairs of the Russell-Colvin Co. were discussed, the board of governors stated that they had advised the members of the firm of the necessity of raising capital. They called the members of the firm before the board of governors and told them they had to raise additional capital before a certain date or be suspended.

Q. Were they actually suspended?—A. They were suspended, I believe, on the morning of Monday, March 10, at about 8 or 8:30 o'clock, at the opening of the exchange.

Q. Did you attend court at the time the petition for receivership was presented to Judge Louderback?—A. I did, sir.

Q. What date was that?—A. That was on March 11.

Q. What day of the week?—A. Tuesday.

Q. Why was the suspension made of the firm?—A. The suspension of the firm was because of the insolvency of the firm, insolvency in the sense of being unable to meet obligations which they had, obligations to clients, and for failure to raise the necessary cash capital demanded to meet these requirements.

Q. For whose protection was that action intended?—A. The action was intended, and so stated, for the protection of the creditors of the firm in requiring the Russell-Colvin Co. to have enough liquid capital to meet the demands of customers.

Q. What interest did the stock exchange have in procuring this receivership?

Mr. LINFORTH. Just a minute. We object to that as calling for the opinion and conclusion of the witness and as hearsay, not binding upon the respondent.

Mr. Manager BROWNING. This witness is counsel for the stock exchange, and we think he is in a position to know the facts as to what we ask him.

The VICE PRESIDENT. Let him state the facts, and the Senate, sitting as a court, can draw its own conclusions. The witness should not go too far afield.

The WITNESS. The facts are that the stock exchange requested me to attend to the filing of the petition in the interest of the creditors.

By Mr. Manager BROWNING:

Q. Did the stock exchange have any other interest in it?

Mr. LINFORTH. Just a moment. We object to that as calling for his opinion or conclusion, Mr. President.

The VICE PRESIDENT. The Chair thinks that the question is not admissible.

Mr. Manager BROWNING. Very well. I will withdraw the question.

By Mr. BROWNING:

Q. On the morning of the 11th of March 1930, what was the first conference that you had with the judge—about what time of day?—A. The first conference I had with the judge was the conference attended by the other attorneys and representatives of the firm shortly after 11 o'clock. Before that time, however, I had been with the attorneys for the plaintiff and the attorneys for the defendant when they had called at the judge's chambers when they had first filed the petition, and thereafter called at the judge's chambers and been advised that the judge could not see them until after the court adjourned, which would be early that day, because they were adjourning early out of respect for the late justice of the Supreme Court, Judge Sanford.

The VICE PRESIDENT. Just a moment. The Chair appoints the Senator from Delaware [Mr. HASTINGS] to preside for the day.

Thereupon Mr. HASTINGS took the chair.

By Mr. Manager BROWNING:

Q. What was done at this conference in the way of procuring the appointment of a receiver?—A. At the first conference attended by Mr. Marrin, attorney for the plaintiff; Mr. Brown, attorney for the defendant; Mr. Strong; myself; and, in behalf of the stock exchange, Mr. Max Thelen, partner of Mr. Marrin; and two partners of the firm of Russell-Colvin & Co.

Mr. Marrin presented briefly the situation to the judge, the request that a receiver be appointed, and requested that Mr. Strong be appointed receiver, stating to the judge that Mr. Strong had been in the firm as an accountant in behalf of the stock exchange to look over the firm's affairs and was familiar with it. Mr. Brown took up the thread of the discussion in behalf of the defendant and stated to the judge that Mr. Strong's appointment was acceptable to the defendants, that they would consent to the appointment of a receiver if Mr. Strong was that receiver, and that they felt that Mr. Strong was a desirable man for that position.

I followed with a brief statement to the judge that I was there at the request of the San Francisco Stock Exchange, which was interested in an orderly and inexpensive liquidation of the affairs of the Russell-Colvin Co.

The judge, as I recall, turned to Mr. Strong and mentioned the fact that he did not know him. He asked Mr. Strong if he had engaged counsel, and Mr. Strong said he had not. The judge stated, I believe, at that time, that there were two petitions that had been filed, and it was necessary to dismiss the petition filed and assigned to Judge St. Sure's court before he could act on the petition assigned to his court. He said to Mr. Strong, "If I appoint you, I will expect you to consult me with respect to the appointment of your counsel." Then he said that he would require a $50,000 bond of Mr. Strong and a $50,000 bond from the petitioning creditor.

We left the judge's chambers, after a brief conversation, as I recall, between Mr. Max Thelen and the judge and

myself about the Harvard Law School, and as we got in the hall the attorneys started to figure how to get the $50,000 bond for the petitioning creditor, which seemed somewhat unusual. We went back to see the judge, and the judge said that it was a bond that he required at all times in the interest of the other creditors, and reduced the bond, however, to $10,000.

Q. In whose favor did this bond run—this petitioner's bond?—A. The bond, as stated by the judge, was to run in favor of the other creditors, anybody who might be injured through the filing of the petition for the appointment of a receiver, and that is the way the bond approved by the judge ultimately did run, as I recall. We returned—do you want me to continue, Mr. Browning?

Mr. Manager BROWNING. Yes.

The WITNESS. We returned in the afternoon, I believe the same group that had been there in the morning, and meanwhile made arrangements for the receiver's bond. We inquired of the judge's secretary and of the clerk of the court as to some form of bond for this petitioner's or plaintiff's bond, and we found no such form there, and were given none and referred to none by either the clerk or the judge's secretary. We were told that the judge was then sitting or in conference with the judges of the circuit court of appeals on that day, but would be in later in the afternoon. Mr. Brown and Mr. Marrin and I took a shot at trying to prepare the type of bond that we thought the judge wanted for the plaintiff. That bond was actually typewritten, in the parts thereof that were not printed, by Mr. Brown in the clerk's office as the result of some notes and dictation given by Mr. Marrin and myself. We still did not know what to put in as the condition of the bond, and so we dictated that on a separate sheet of paper. We wrote it out and did not put it in the bond until we went in the judge's chambers. We went back into the judge's chambers at about, I should say, 4:30 or thereabouts, possibly a little later, and presented the bonds in the form of an order and discussed with the judge the question as to the petitioner's bond. We showed him this condition clause written on a piece of paper, and he said that that was satisfactory, as I recall. I believe that I wrote that in in longhand in the bond which was actually executed at that time by the representative of the surety company. The judge approved the bond and signed the order.

I do not believe we had any further conversation until the judge said to Mr. Strong as we were coming out, "After you have qualified I want to see you", or "Come back to see me." We then went to the clerk's office, and I departed almost within a few minutes thereafter, not waiting for the gentlemen to complete their copies and to get certified copies and to insert the ink corrections that the judge had added to the order or suggested our putting in there. I did not wait for the completion of those copies. I did speak to Mr. Strong, however, in the afternoon after his appointment as to the attorneyship.

Q. Who brought up the question?—A. I do not recall whether Mr. Strong or I brought up the question.

Q. Who was discussed in that conversation as his attorney?—A. Mr. Strong said to me in that discussion, which was in the afternoon, as I recall—late in the afternoon, after the appointment—that he had spoken to Mr. Ackerman, Mr. Lloyd Ackerman, with reference to his acting as attorney. He said he was uncertain as to whether to appoint Mr. Ackerman or Mr. McAuliffe one of my partners. He said that he wondered whether there was any interest of the San Francisco Stock Exchange which would preclude appointing Mr. McAuliffe, whom he desired to appoint. I discussed the matter with him and showed him that there could be no conflict of interest between the San Francisco Stock Exchange and the creditors of the firm.

Mr. Strong, as I recall, made no commitment to me as to the appointment of attorneys, nor did I of course press him for any commitment. I went back to the office. I may or may not have spoken to Mr. McAuliffe on the subject. I could not be positive at this time. But I was not present at any discussion in the evening, if any took place.

Q. Did you know whether Mr. Strong would come to the office or not?—A. I did not know positively. I do not recall whether I got the impression he was coming or the statement he was coming. I had to get back to the office. I had been out almost all day and I wanted to get back to the office, and did.

Q. Before the talk you testified to as having occurred after his qualification, was there any discussion to your knowledge with regard to who would be his counsel in that case?—A. Before what time?

Q. Before the time he qualified as receiver.—A. To my knowledge we had no such discussion. I had none with him, I know, and none was had with anybody in my presence or within my hearing.

Q. On the morning of the 11th when you were out there at the court did you see H. B. Hunter?—A. Yes; I saw Mr. Hunter, whom I had known since his previous connection with the San Francisco Stock Exchange. I saw him before we went into the judge's chambers to have this conference with reference to the appointment of receiver. In fact, I saw him just about the time court was adjourning. I saw him in the lobby of the post office building where the court is located. As nearly as I can recall the conversation, he came up to me——

Mr. LINFORTH. Just a moment. I submit the question could have been answered with one word and that the witness is now proceeding to give a conversation that was not asked for by the question. May I have the question read?

The PRESIDING OFFICER. The question will be read.

The Official Reporter read as follows:

Q. On the morning of the 11th, when you were out there at the court, did you see H. B. Hunter?

Q. (By Mr. Manager BROWNING.) Did you have a conversation with him at that time?—A. I saw him and had a conversation with him at that time.

Q. In that conversation was the Russell-Colvin receivership discussed?—A. Yes.

Q. In the second conference that the attorneys and Mr. Strong had with the judge in the afternoon of the 11th, when you were leaving the room did Judge Louderback tell Mr. Strong, in words or substance, when he qualified to come back that evening?—A. No, sir; he did not.

Q. What connection has Mr. Hunter had with the stock exchange that you have mentioned?—A. He was, I believe, assistant to the president of the exchange or executive secretary of the exchange. The exact title I am not certain of.

Q. Was William Cavalier & Co. a member of the San Francisco Stock Exchange?—A. It was at that time, and I believe still is.

Q. Was he a partner in that concern?—A. I so understood.

Q. At that time was a member of the Cavalier & Co. a member of the board of governors of the stock exchange of San Francisco?—A. Yes; there was a member of the firm of William Cavalier & Co. a member of the board of governors of the San Francisco Stock Exchange at that time, to the best of my recollection.

Q. What is the relation between any member house in the stock exchange with relation to the obligation of the members to each other or to the exchange?—A. You mean particularly upon a suspension?

Q. Yes.—A. The rules of the San Francisco Stock Exchange provide for the closing of contracts when a member is suspended, notice going out through the secretary that each member must close the contract with any other member. If a balance is owing as a result of the closing of that contract, that constitutes a claim which must be presented to the secretary and for which the seat or membership is security.

Q. If you know, please state how much Russell-Colvin Co. owed to other members of the stock exchange at that time.—A. You are referring particularly to claims for which the seat would be security?

Q. Yes.—A. I do know the total of the claims of members and of the stock exchange and curb exchange themselves arising out of the dues chargeable to members for which the

seat or membership was also security, inasmuch as I ultimately prepared those claims, which were allowed. I believe the total claims prepared and allowed were $1,254 and some odd cents, which, however, were subsequently augmented to a total of about $3,300, or slightly in excess of $3,300, on account of accruing charges, I believe, such as charges for clearing certificates that were being sold out through the membership, and membership dues, and things of that kind. The claims were $1,254 and a few odd cents, ultimately increased and allowed to about $3,300.

Q. What was the value of a seat on the stock exchange at that time?—A. The value of a seat on the stock exchange at that time was considered to be in excess of $100,000, or in the neighborhood possibly of $125,000.

Mr. Manager BROWNING. Take the witness.

Cross-examination by Mr. LINFORTH:

Q. Mr. Dinkelspiel, have you or the firm with which you are connected taken a very decided interest in this impeachment matter?—A. What do you mean by decided interest, Mr. Linforth? I can explain my answer.

Q. In answer to your suggestion, let me ask you this: Are you the only member of your firm here as a witness?—A. No, sir.

Q. How many members of your firm are here as witnesses in this proceeding?

Mr. LONG. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. I have just entered the Chamber. What is the firm with which this witness is connected?

Mr. LINFORTH. The firm of Heller, Ehrmann, White & McAuliffe.

The WITNESS. Mr. Ehrmann, Mr. White, and myself have all been subpenaed as witnesses.

By Mr. LINFORTH:

Q. Has Mr. McAuliffe been subpenaed also?—A. I do not believe so. He was in Washington and was asked to remain over, but on account of depletion of our office ranks was permitted to be excused.

Q. The seat which was owned by the Russell-Colvin people in the stock exchange was security for any claim of any member of the exchange against the Russell-Colvin people, was it not?—A. Not for any claim of any member. A personal obligation from Russell-Colvin & Co. to a member not arising out of a stock-exchange transaction was not secured by the seat.

Q. Did not article XX, sections 1 and 2, of the stock-exchange constitution provide that the seat of a member could not be sold until the claims of all other members against the defaulting member were paid in full?—A. There was an article and is an article of the constitution stating that in substance, I do not believe in the exact language, and construed within the power of the governing board to mean member claims or claims arising out of ordinary contracts and not personal obligations.

Q. In order to try to end the matter with one question, through your connection with the stock exchange, are you not aware that at the time of this transaction, article XX, sections 1 and 2, provided that no sale of any seat would be complete until the stock exchange gave its consent, and the stock exchange would not give its consent until the proceeds from the seat were used for the payment of 100 cents on the dollar of any claimant who happened to be a member of the stock exchange?—A. I do not believe that is so. There is, if you will permit me to explain my answer, a provision of the constitution of the stock exchange making the seat security for the contracts and obligations of members, and providing that the proceeds of the sale of a seat shall be applied in payment of those claims.

Q. Have you with you a copy of the rules of the San Francisco Stock Exchange that were in force at the time of this transaction?—A. I have not.

Q. I understood you to say that you were positive Mr. Strong did not talk with you on the question of the employment of counsel until after he qualified. Is that right?—A. I did so answer, but in thinking the matter over, I am positive that he did not talk to me about the employment of counsel until after he had come out of the judge's chambers that second time in the afternoon. Whether he had actually taken the oath or not I am not certain.

Q. Will your memory permit you to say positively that there was no discussion between you and Mr. Strong on the question of appointment of counsel before the order had been made appointing him?—A. My memory is positive to this extent, that there was no discussion with Mr. Strong as to the employment of counsel that I heard or participated in until the afternoon of the 11th of March, and the best of my recollection is not until after the order of the court.

Q. Has your memory been refreshed on that subject since you were a witness before the investigating body in San Francisco in September of last year?—A. Generally by reference to files of correspondence and general office diaries and matters.

Q. Is it a fact that when you were a witness before the investigating committee in San Francisco in September 1932 you were then not positive as to whether you had had any talk with the receiver about the appointment of counsel before the order was made?—A. I wish you would permit me to see my testimony, counsel.

Q. Yes, sir.—A. I believe I can recall what I testified, that I was not—that I could not be positive there was no discussion until after the morning conference with Judge Louderback until some time in the afternoon, and that I believed there was no discussion until after the actual order was made.

Q. At the time and place that I have referred to were these questions asked you, and did you give these answers [reading from page 76 of the record]?

Q. Now, you did not suggest to Strong that afternoon, your firm to be employed, did you?—A. I discussed with Mr. Strong, after his appointment, the question of the appointment of attorneys.

Q. All right.—A. And Mr. Strong mentioned to me that he was uncertain whether to employ Mr. Ackerman or to employ our firm.

Q. When was that?—A. I believe it was after the appointment. I am not positive, but I think it was that afternoon.

Did you give that testimony at that time?—A. I gave that testimony, and I still give it, Mr. Linforth.

Q. And is it the fact that at the time you gave that testimony you were then not positive as to whether or not Strong had talked to you about the appointment of attorneys before he was appointed receiver?—A. No, sir. May I have that question again?

The PRESIDING OFFICER. The question will be read.

The Official Reporter read the question, as follows:

And is it the fact that at the time you gave that testimony you were then not positive as to whether or not Strong had talked to you about the appointment of attorneys before he was appointed receiver?

The WITNESS. At the time I gave that testimony, and now, I was positive and am positive that Mr. Strong did not discuss the matter of the employment of counsel with me until subsequent to the morning conference when the judge announced his intention of appointing Mr. Strong as receiver. I did not discuss that matter until the afternoon of March 11; and the best of my recollection at that time, the time of the prior hearing, and now, was and is that Mr. Strong did not discuss the matter with me until he came out of the judge's chambers for the second time.

Q. About what time was it that the judge signed the order appointing Mr. Strong receiver?—A. I could not be positive. I think it was around 4:30 to 5 o'clock in the afternoon.

Q. Are you positive that up to that time Mr. Strong had not discussed with you the question of attorneyship?—A. I have already answered that question, Mr. Linforth—that to the best of my recollection Mr. Strong did not discuss the matter with me until after that time, and I am positive that he did not discuss the matter with me until the afternoon of March 11.

Q. Did you hear Judge Louderback state to Mr. Strong, at or before the time of his appointment, that he would consider him an officer of the court?—A. I cannot state positively. I believe, however, that such a statement was made.

Q. And did he also state to Mr. Strong that he must confer with the judge on the appointment of his attorneys?—A. I do not think he used those words. As I have already testified, he stated that he should expect him to consult with him with reference to the appointment of his attorneys or his counsel.

Q. And in substance the judge told him that, did he not?—A. I believe that my last answer is the best I can give you on that, Mr. Linforth.

Q. Did not the judge at that time, with you persons present, ask Mr. Strong whether he had selected any attorneys?—A. I do not know whether the word "selected" was used. I think he asked him—I am sure he asked him—a question as to whether he was represented by counsel.

Q. Did he not at that time, and before he made the order of appointment, ask him whether or not any of the lawyers present, and including you by name, had been talked to by Mr. Strong as possible attorneys for the receiver?—A. To that question in its present form I can give a positive answer of "no", because I am quite certain the judge did not even know my name.

Q. Did you tell the judge at that time who you were?—A. Yes, sir; I did.

Q. And that you were there representing the San Francisco Stock Exchange?—A. Yes, sir; I did.

Q. Did the judge, before he made the order of appointment, say to Mr. Strong, "You are not going to arrange with any of the counsel present as your counsel, are you?"—A. No, sir; he did not say that.

Q. And Mr. Strong did not answer that he was not?—A. Well, the question was not asked, so the answer could not have been given, Mr. Linforth.

Q. Now I call your attention to this book, Constitution and Rules of the San Francisco Stock Exchange, and I call your attention to article XX, under the title of "Transfer of Membership", and to subdivisions (1) and (2) of section 2, and also section 1, and ask you if those were the rules in force at the time of these transactions.—A. What particular sections, Mr. Linforth, are you referring to?

The PRESIDING OFFICER. Read the question.

The Official Reporter read the question, as follows:

Now I call your attention to this book, Constitution and Rules of the San Francisco Stock Exchange, and I call your attention to article XX, under the title of "Transfer of Membership", and to subdivisions (1) and (2) of section 2, and also section 1, and ask you if those were the rules in force at the time of these transactions.

The WITNESS. I believe those rules were in effect.

Mr. LINFORTH. We offer these rules as part of the testimony of the witness.

The PRESIDING OFFICER. They will be admitted.

Mr. LINFORTH. And I should like to read this rule into the RECORD, Mr. President:

ARTICLE XX. TRANSFER OF MEMBERSHIP

SECTION 1. The transfer of membership by any member of the exchange shall be made, except as otherwise herein provided, in the following manner:

(a) The application, together with the initial fee of the transferee, shall be filed with the secretary as provided in article III hereof, and the membership committee shall pass upon such application as in said article provided.

(b) The name of the transferee shall be submitted to all members of the exchange at least 10 days prior to the date of election.

The member proposing to transfer his membership shall not after the 9th day after transmittal of such notice make any contracts unless the contract is expressly made on behalf of another member of the exchange.

On the 9th day after the transmitting of notice of a proposed transfer of membership all exchange contracts of the member proposing to make such transfer or of his firm shall mature, and if not settled shall be closed out as in the case of insolvency unless the same are assumed and taken over by another member of the exchange.

(c) The member proposing to transfer his membership shall, at the time such application is filed, deposit with the Secretary a transfer fee of $1,000.

SEC. 2. Upon any transfer of membership, whether made by a member voluntarily or by the governing board in pursuance of the provisions of the Constitution, the proceeds thereof shall be applied to the following purposes and in the following order of priority, viz:

(1) The payment of all dues, fines, contributions, and charges payable to the exchange by the member whose membership is transferred, and all indebtedness of such member thereto.

(2) The payment to creditors who are members of the exchange, or the firms which they represent.

If a claim based on a contract, the amount that will ultimately be due thereon, cannot for any reason be immediately ascertained and determined, the governing board may, out of the proceeds of the membership, reserve and retain such an amount as it may deem appropriate, pending the determination of the amount due on such claim.

And then jumping to subdivision (4):

(4) The surplus, if any, of said proceeds shall be paid to the person whose membership is transferred or to his legal representative upon the execution by him or them, of releases satisfactory to the governing board.

SEC. 3. A member of the exchange or the firm whom he represents shall forfeit all right, under section 2 of this article, to share in the proceeds of a membership which has been transferred, unless such member or firm files a statement of his or its claim with the governing board, prior to the transfer.

The WITNESS. May I see that, Mr. President?

(The book was exhibited to the witness.)

The WITNESS. May I make a statement in connection with an answer previously given as to this rule that Mr. Linforth has been referring to?

The PRESIDING OFFICER. Yes.

The WITNESS. There is elsewhere in this constitution and rules, I believe—I am quite certain—a provision as to what member claims are; and the governing board of the San Francisco Stock Exchange has construed claims that are charges against a seat as being only claims made in the ordinary course of dealing between members, and has in fact within comparatively a recent time refused to allow a personal claim of members as a claim against the membership.

By Mr. LINFORTH:

Q. At the time of this receivership, do you know whether or not Russell-Colvin & Co. was indebted to various other members of the San Francisco Stock Exchange?—A. I know only this, that we prepared the secured claim——

Mr. LINFORTH. Mr. President, the rule was announced yesterday that if the witness was not answering a question directly, we waived our right to strike it out if we permitted him to continue. Therefore, at this time most respectfully I urge that the witness is not answering the question, and that his attention should be directed to it.

The PRESIDING OFFICER. Will you answer the question?

The Official Reporter read the question, as follows:

At the time of this receivership, do you know whether or not Russell-Colvin & Co. was indebted to various other members of the San Francisco Stock Exchange?

The WITNESS. Yes; to a limited extent. May I explain the answer?

The PRESIDING OFFICER. The Chair thinks that answers the question.

By Mr. LINFORTH:

Q. Was Pierce & Co. at that time a member of the San Francisco Stock Exchange?—A. I do not think so.

Q. Are you positive of that?—A. I am not positive; no, sir.

Q. Were Barneson & Co. members of the San Francisco Stock Exchange at that time?—A. I am not certain. They are not now, and I am not sure whether they were then or not.

Q. Were Miller & Co. members of the San Francisco Stock Exchange at that time?—A. I am not certain.

Q. Do you know how much Russell-Colvin & Co. owed to those three persons whom you are not certain were members of the exchange?—A. I know something about the E. A. Pierce & Co. indebtedness; not the others—the secured indebtedness.

Q. You do not know, do you, how many hundreds of thousands of dollars Russell-Colvin & Co. owed to members of the stock exchange at the time of the appointment of the receiver?—A. Not in dollars and cents; no.

Q. Do you know approximately how much in the hundreds of thousands?—A. I could only hazard a guess. I

know it was a very substantial amount of money, secured by a great volume of stocks.

Q. Do you know of your own knowledge whether or not the amount of indebtedness from Russell-Colvin & Co. to various members of the stock exchange at the time receivership was appointed—do you know of your own knowledge whether or not the security they held in every instance was enough to pay those brokers who were members of the San Francisco Stock Exchange?—A. Only to this extent, that I was asked to prepare in behalf of the members and of the exchange the claim secured by the membership, which claim, as I stated before, was $1,254, subsequently increased to about $3,300.

Q. Have you that paper with you?—A. I have seen it—yes, I have it, but not here—at the hotel.

Q. Can you produce it?—A. I think you will find it in the record of the receivership proceedings accounted for in Mr. Hunter's report. I was reading it in the transcript last evening.

Q. Mr. Dinkelspiel, if you could produce it, I would be willing to suspend, and then ask you the one question in regard to it, and the examination would be completed.—A. I have only copies of it. If you have the original file of the Russell-Colvin proceedings, it will be in the original file.

Q. The value of the seat in the exchange you have referred to is about $100,000?—A. Yes.

Q. Considerably less today?—A. Considerably less today.

Q. What?—A. I do not know.

Q. Do you recall what the price was for the last seat sold?

Mr. Manager PERKINS. Mr. President, we object to the question as being immaterial.

The PRESIDING OFFICER. What is the materiality of that?

Mr. LINFORTH. The reason, Mr. President, is this: Inasmuch as the receivership is attacked, I wanted to show by the witness upon the stand, if I could, the value of the seat today, and then if he knows what the receiver sold it for.

The PRESIDING OFFICER. The witness may answer the question.

The WITNESS. I do not know the value today. It is less than what the receiver sold it for.

By Mr. LINFORTH:

Q. The value today is considerably less than Mr. Hunter, the receiver, sold the seat for?—A. Taking value as the marketable price of the seat.

Mr. LINFORTH. I think that is all, Mr. President.

Mr. Manager BROWNING. That is all.

The PRESIDING OFFICER. Call the next witness.

EXAMINATION OF JEROME B. WHITE

Mr. Manager BROWNING. Call Jerome White.

Jerome B. White, having been duly sworn, was examined and testified as follows:

By Mr. Manager BROWNING:

Q. Mr. White, are you a member of the firm of Heller, Ehrmann, White & McAuliffe, in San Francisco?—A. I am.

Q. Do you recall a controversy that arose over the receivership matter of Russell-Colvin in March 1930?—A. I do.

Q. When was it first brought to your attention?—A. It was first brought to my attention the day after that upon which Mr. Addison Strong had been appointed receiver.

Q. Do you remember the day of the month?—A. He was appointed, I take it, on the 11th, and this was on the 12th that it came to my attention.

Q. Did you have a conference with Judge Louderback that day?—A. I did have a conference with the judge. I went out to see him along toward the middle of the afternoon, and saw him in his chambers.

Q. Was that the first conference you had had with Judge Louderback with regard to this matter?—A. It was.

Q. At that time what transpired between you and Judge Louderback in connection with this case?—A. I told the judge the purpose of my call, that Mr. Strong, whom I had been with at noontime—I had been with Mr. Strong, Mr. Hood, and Mr. McAuliffe for lunch during the noon hour—that Mr. Strong told me what had transpired up to that time, noontime of that same day, and that Mr. Strong desired that our firm should represent him, and I called to see if I could obtain the judge's approval to the appointment. I told the judge that I had with me in my pocket, or my brief case, I will not be sure, but I had with me—I did not take it out and present it to him, however—the regular formal form of order appointing or confirming the appointment of attorneys for the receiver, the attorneys, of course, being designated in the form as Heller, Ehrmann, White & McAuliffe.

The judge immediately expressed in anger his feelings in the matter, saying that it was very embarrassing to him, that this was a very, very embarrassing situation, and he regretted it very much, that he could not understand the kind of man that Strong—what kind of man he was. He bitterly criticized Strong for not having come back to see him on the afternoon of the day on which he was appointed, no matter how late it was.

I pointed out Mr. Strong's excuse that he had given to me. The judge said that did not matter, he was there, and had Strong come back to his chambers, as he expected he would, he would have found him there, and had he come back this thing would not have happened. I argued with the judge a bit. First he said he was thinking very much that Strong was not the proper kind of man for him to have as receiver in this case, that he did not like his attitude at all, that he thought he was insubordinate in that he had not come back as he had promised. I argued to the judge a bit that that was an oversight and that it was not intentional, that Strong was not that type of man who would willfully disobey a suggestion of the judge. I also argued to the judge a bit about Strong's qualifications for this position. I asked the judge if he had any objection to our firm, if there was any ground why we were not a proper firm to handle the legal affairs, to represent the receiver as counsel.

The judge said that that was not the point, that he had wanted to name the attorney in this matter, that it was his practice, he told me, where the interested parties come before him and make a suggestion, or practically select their own receiver, make a suggestion as to who the receiver should be, and he adopted that suggestion, it had been his practice, he said, in those cases, to make selection himself of the attorneys, and that he expected to do it in this case, and had insisted upon Mr. Strong accepting Mr. John Douglas Short. Mr. Strong apparently had refused to do so, and was refusing to do so, and he considered him insubordinate.

I said to the judge that his refusal—that the refusal to accept our firm under the circumstances would, at least among the parties who knew the facts—because the plaintiff's attorneys and the defendant's attorneys, and the parties on the inside, did know the facts up to that moment—would be a reflection upon the standing of our firm, and I asked the judge if he had any reason for adopting that position. He said, "No." He said, "I have no objection to the firm whatever, and I have known you a great many years; but", he said, "it is Strong that I take exception to—his conduct—and I have asked for his resignation."

I said, "Your Honor, if his attitude in the matter of the selection of an attorney has put him in that position, Mr. Strong has told you, and he has told us, that he would accept Mr. Lloyd Ackerman, and that it would be better for Your Honor, if you prefer him to us, it is perfectly agreeable to us, we would retire rather than have you accept Mr. Strong's resignation."

"No", he said, "that is all the same, the same situation with reference to Mr. Ackerman." He said, "I am not going to decide this matter now." He said, "I will think it over and you might come back tomorrow morning at 9 o'clock and I will talk with you further about it."

Q. In that conversation, did he say anything to you about not conferring with you about it until he had seen Strong again?—A. No; he did not say that I was not to confer with Strong or with anybody.

Q. That is not the question. My question is, Did the judge decline to discuss it with you until he could see Strong himself?—A. Well, he had discussed it with me at considerable length that afternoon, and said at the end of the interview that there was not any use to talk further about it, that he was going to give it some thought, and I could come back the first thing in the morning, I think he said 9 o'clock, and he would make up his mind and would tell us about it.

Q. Did you go out to the judge's chambers and have a conference with him, or call on him, on the morning of the 12th, the next morning after Mr. Strong had been appointed receiver, and before Mr. Strong saw Judge Louderback?—A. The morning of the 12th? I am talking now about the afternoon of the 12th. I did not go at any time to the judge prior to this visit of mine in the afternoon, after I had had lunch with Mr. Hood, who is Mr. Strong's partner, Mr. Strong, and Mr. McAuliffe.

Q. In that conversation did Judge Louderback object to your firm on the ground that you represented the stock exchange?—A. No; he did not give that as his objection. It was as I have indicated, and I cannot give the exact language, but I do know the judge put considerable emphasis upon the circumstance that he did not know Mr. Strong. He said he came to him as a stranger, vouched for by these gentlemen, and he did not question that he was a man of good reputation, but it was a matter of policy which he had followed where the parties make a suggestion as to the receiver, it was his practice to make the suggestion as to attorneys.

Q. Did you have any conference with Judge Louderback the next morning, on the 13th?—A. I did. I went there at 9 o'clock.

Q. What transpired in that conference?—A. In that conference the judge said that he was not going to give me a final answer about this, that he was going to send for Mr. Marrin, Mr. Thelen, and I think Brown, and have a talk with them; that it might be that there would not be any receiver appointed, or that the appointment would be vacated, that there would not be any receivership in this matter. "But", he said, "if I retain Mr. Strong, I do give my consent to you people acting as his attorney." He said, "If he continues as the receiver, I will sign the order appointing your firm attorneys for the receiver."

Q. Was that the last conference you had with him about it?—A. It was.

Mr. Manager BROWNING. That is all.

Cross-examination by Mr. LINFORTH:

Q. Mr. White, how long had you known Judge Louderback at the time of these conversations?—A. I knew Judge Louderback before he went on the bench of the superior court. I would say less than 15 years and not more than 27, since I have been practicing.

Q. And your relations had always been pleasant and agreeable with him up to the time of the happening of these matters?—A. Yes; they had been. I never had any difficulty of any kind with the judge. I had not appeared in his court since he was a Federal judge to any extent.

Q. But your acquaintanceship had run back the years you have stated?—A. Exactly.

Q. The judge told you, did he not, that where he had appointed a person receiver who was unknown to him, at the recommendation of the parties, his rule was to have a check on him by suggesting the attorney who ought to be appointed?—A. That was, in substance, the position which he took.

Q. When you talked with the judge, he frankly told you that he was considering the advisability of removing him?—A. Yes; he said he had asked for his resignation.

Q. And he told you that if after talking with the other attorneys interested in the matter, he should conclude to let him remain, he would then consent to the appointment of your firm?—A. In substance, he said if Mr. Strong was the receiver, we could be his counsel, but he did not. I went away firmly of the impression that he was going to let Strong remain if there was a receivership at all. That was my conclusion in the matter, and I so notified my partner.

Q. But the judge notified you that he was thinking seriously of removing Mr. Strong?—A. He was dissatisfied with Mr. Strong.

Q. Did you tell the judge on your first visit, the day after the appointment of the receiver, that you had with you a petition for the appointment of the firm of Heller, Ehrmann, White & McAuliffe as attorneys for the receiver Strong?—A. I did.

Q. You told him that petition was for the appointment of the firm?—A. Yes; it was.

Q. And it was for the appointment of the firm, was it not?—A. It was.

Mr. LINFORTH. I have no further questions.

Mr. Manager BROWNING. That is all.

(The witness retired from the stand.)

EXAMINATION OF SIDNEY SCHWARTZ

Sidney Schwartz, having been duly sworn, was examined, and testified as follows:

By Mr. Manager BROWNING:

Q. Is this Mr. Sidney Schwartz?—A. Yes, sir.

Q. Where do you live, Mr. Schwartz?—A. In the city and county of San Francisco, Calif.

Q. What is your occupation?—A. I am a stockbroker.

Q. With what firm are you connected now?—A. With the firm of Sutro & Co.

Q. In what capacity?—A. I am the senior partner.

Q. Have you ever been president of the San Francisco Stock Exchange?—A. Yes, sir.

Q. At what time?—A. From October 1923 until January 8, 1932, inclusive.

Q. In the year 1929, as president of the stock exchange, were you made acquainted with the situation with regard to the Russell-Colvin Co.?—A. Their general condition, yes; and the inadequacy of their capital.

Q. What steps were taken by the exchange with regard to it?—A. In November 1929 the San Francisco Stock Exchange, immediately following the market break, sent out a questionnaire to different members in order to determine the adequacy of capital of all member firms, and the firm of Russell-Colvin was among those firms that then at that time showed a weak capital structure.

Q. Did you have any supervision over the company at the time you went out as president of the exchange?—A. Do you mean me personally, sir?

Q. I mean the exchange itself.—A. The exchange did through its auditor, and as president of the exchange I then, at that time, issued an order to closely watch the developments in the firm of Russell-Colvin, as well as several other firms; and at that time Russell-Colvin became aware that it would be desirable, and almost imperative, to furnish themselves with additional working capital.

Q. Do you know what later steps were taken by the exchange with regard to this concern?—A. It is my recollection that Russell-Colvin did furnish themselves with some amount of additional working capital, and at least I am positive that their working capital was sufficient to permit them to remain as active members of the San Francisco Stock Exchange, at least for the time during which I was president of the exchange.

Q. But later, on March 10 of that year, you were notified or were made aware of the fact that they were suspended?—A. I had retired as president of the exchange on January 8, 1930. Consequently at that time I had no definite knowledge as to their condition or no reason to have any definite knowledge.

Q. Is there any other action except suspension that the stock exchange may take with regard to its members?—A. Yes, sir; there is.

Q. What is it?—A. The stock exchange has the power either to suspend or expel. In the event of insolvency, the exchange suspends a member; in the event of violations or infractions of the rules, bylaws, and constitution of the exchange, the exchange uses the power of expulsion.

Q. What claims of members of the exchange are secured by the seat of a member?—A. All claims of the members of the stock exchange arising from member contracts, and from member contracts alone, are secured by the membership in the exchange of the individual member; and the governing board of the San Francisco Stock Exchange defines member contracts. In the constitution will be found a clause touching on this, article 20, that I heard quoted recently or a few moments ago, defining the powers given to the governing board to define member contracts. I know that rule to my own sorrow, because the attorney for the exchange decided a case against my own firm, ruling that certain transactions for individual partners of the exchange did not come under the rule of constituting a member contract; and consequently in this particular matter, did not furnish my own firm with the security normally given by the value of a seat on the exchange.

Q. Is there any other financial interest that the exchange has with regard to membership except the security of other members for their claims, as you have described?

The WITNESS. May I have that question repeated?

Mr. Manager BROWNING. Will the reporter please read the question?

The Official Reporter read as follows:

Q. Is there any other financial interest that the exchange has with regard to membership except the security of other members for their claims, as you have described?

The WITNESS. There is no other financial interest; there is an ethical interest, but no other financial interest.

By Mr. Manager BROWNING:

Q. Do you know H. B. Hunter?—A. I do, sir.

Q. What connection have you had with him, if any?—A. I met Mr. Hunter for the first time—and I must give you this date out of my memory—in November 1928, when the resignation of the assistant to the president of the stock exchange, which is an appointive office, was accepted, vacating the office; and when I requested applications for that position, among the applications was an application from Mr. H. B. Hunter. That was the time that I first became acquainted with him. He held that position, if my memory serves me correctly, until approximately May or June 1929. I give you those dates out of memory and they may not be correct.

Q. Do you know with whom he was connected in March 1930?—A. In March 1930 and from the time of his resignation he was a partner in the firm of William Cavalier & Co., members of the San Francisco Stock Exchange.

Q. Did they have a member of that firm on the board of governors of the exchange?—A. They did—will you give me the date?

Q. In March 1930.—A. They did—Mr. Robert Willis, and I believe he is still a governor of that exchange; he is.

Q. Do you recall the occasion when the receivership was applied for in the Russell-Colvin case?—A. Pardon me.

Q. Do you recall the occasion when the receivership was instituted in the Russell-Colvin case?—A. My knowledge of that, Mr. BROWNING, comes from the newspapers. I had been East and subsequently South and arrived back in San Francisco, I would say, approximately a week before reading in the newspaper of the insolvency of the Russell-Colvin Co. and of the appointment of a receiver, Mr. Addison Strong.

Q. Did you get any information from anyone about the selection of the receiver in that case?—A. I should like to have that question repeated.

Q. Did you get any information from anyone about who would be the receiver in that case or who was the receiver?—A. From the newspapers I read that Mr. Addison Strong had been appointed receiver. Subsequently I had a phone call from Mr. Hunter.

Q. What time of the day was that?—A. To the best of my recollection, it was sometime prior to 2:30 o'clock on that day. I fix that time for the reason that I had a rather lengthy conversation with Mr. Hunter, who stated to me that he thought he was to be appointed receiver in the Russell-Colvin matter. I said to Mr. Hunter, in surprise, that I had read in the paper that Mr. Strong had been appointed the receiver, and he told me, "Well, there is some understanding there, and I am inclined to believe that I am going to be the receiver; and if I require your recommendation, may I have it?" I said to him that I did not want to get into any controversy between Mr. Strong and Mr. Hunter for the receivership, which he could appreciate, but also told him at the time that my connections with Mr. Strong through his having been auditor of the San Francisco Stock Exchange for a great many years were of the most friendly character and such that I certainly felt that Mr. Strong was better qualified as a receiver; but, in the event of Mr. Strong being the receiver and in the event of my recommendation not doing any damage to Mr. Strong, that I should be very glad to recommend Mr. Hunter.

Q. When did you next hear from him?—A. It is my recollection it was the following day—and if not on the following day, then on the day after—that Mr. Hunter called at my office and told me that he had been appointed receiver. We had a very brief conversation. I congratulated him, but I went into none of the details beyond that, because it was at an hour and a time when I was quite busy.

Q. Did you recommend him to Judge Louderback for receiver?—A. I did not.

Q. Did the judge ever speak to you about him?—A. He did not.

Q. Did you send him any word directly or indirectly concerning it?—A. I sent him no word directly, Mr. BROWNING, and indirectly only if Mr. Hunter had conveyed my conversation to the judge.

Mr. Manager BROWNING. Take the witness.

The PRESIDING OFFICER. Do counsel for the respondent desire to cross-examine the witness?

Mr. LINFORTH. Mr. President, the respondent does not deem it necessary to cross-examine this witness.

The PRESIDING OFFICER. Call the next witness.

OFFER OF SUPERIOR COURT RECORDS

Mr. Manager PERKINS. Mr. President, we offer in evidence a certified copy of an order made by Judge Harold Louderback appointing W. S. Leake, Fairmont Hotel, and G. H. Gilbert, 16 California Street, appraisers in the matter of the estate of Howard Brickell, dated April 5, 1927.

(See U.S.S. Exhibit 4.)

The PRESIDING OFFICER. Is there any objection on the part of counsel for the respondent?

Mr. HANLEY. Mr. President, we object to it; first, on the ground of lack of jurisdiction of this body to go into any matter that occurred prior to Judge Louderback being appointed a Federal judge, because the cases hold—and the full set-up of the whole matter is expressed in volume 9, and the authorities are there collated by Mr. Hughes in his Federal Practice—that the moment the Senate of the United States confirm a Federal judge apparently it is like absolution and wipes out his former transgressions; and in any matter that has to do with his conduct and acts prior to being appointed a Federal judge, that the Senate of the United States would be impeaching their own integrity, so the cases say, if they attempted to go back of that. So we say to you, Mr. President, and to the Senate sitting as judges and jurors, that the conduct of Superior Judge Louderback, if it be misconduct, has nothing to do in any way, shape, manner, or form with the impeachment articles.

Very frankly I say to you, Mr. President, that upon the hearing had in this Chamber upon the 18th day of April, Mr. Manager SUMNERS then said, "We do not rely upon it as an impeaching matter, and you could not impeach," said he on that occasion——

The PRESIDING OFFICER. Will counsel suspend for a moment until we ascertain the purpose for which the offer is made?

Mr. Manager PERKINS. It is the intention of the managers on the part of the House, with your permission, to introduce evidence in the nature of certified copies of court records for the purpose of showing the close and intimate relationship that existed between Judge Louderback and Mr. Leake and Mr. Gilbert.

The PRESIDING OFFICER. Do counsel for the respondent deny that that is material? Do they deny that this is material evidence for the purpose stated by the House manager?

Mr. HANLEY. Yes; we do, for this reason: The mere fact that a court appoints a member of the bar or a citizen of his community an appraiser does not show an intimate relationship.

The PRESIDING OFFICER. The present occupant of the chair is very clear that it is admissible for whatever it may be worth for the purpose stated by the manager on the part of the House.

Mr. Manager PERKINS. We also offer a certified copy of an order signed by Judge Harold Louderback on May 24, 1927, appointing W. S. Leake receiver in the case of Heath against Heath, with the requirement of a bond of $25,000.

Mr. HANLEY. For all the reasons heretofore urged, we make similar objection.

The PRESIDING OFFICER. The Chair understands the managers of the House have offered this for the same purpose, and the offer is being made for that sole purpose?

Mr. Manager PERKINS. For the sole purpose of showing the relationship between the respondent and W. S. Leake and Mr. Gilbert, and the course of conduct which culminated in the conspiracy charged and other charges made in the impeachment.

The PRESIDING OFFICER. Let them be admitted.

(See U.S.S. Exhibit 5.)

Mr. Manager PERKINS. We offer a certified copy of an affidavit or verification made by W. S. Leake in the case of Heath against Heath, dated May 24, 1927.

(See U.S.S. Exhibit 6.)

Mr. Manager PERKINS. We offer a certified copy of the oath of appraisers and the bill for services rendered by W. S. Leake and G. H. Gilbert in the sum of $1,750 in the matter of the estate of Howard Brickell, dated December 20, 1927.

(See U.S.S. Exhibit 7.)

Mr. HANLEY. Is not the name of Mr. R. F. Mogan on that bill? The manager has not read it all.

Mr. Manager PERKINS. I merely identified the paper so far as it relates to this proceeding. There is another name of another appraiser named Mogan, but the managers on the part of the House did not conceive it necessary to mention that name in order to identify the paper offered.

The PRESIDING OFFICER. May the Chair inquire whether the House managers desire these papers printed as a part of the record or that just that which counsel states shall be made a part of the record?

Mr. Manager PERKINS. May I confer with the other managers?

The PRESIDING OFFICER. Certainly.

Mr. Manager PERKINS (after conference). The opinion of the managers on the part of the House is that they ought to go in the record.

The PRESIDING OFFICER. Do you mean the entire paper?

Mr. Manager PERKINS. With the permission of the President and of the Senate we could delete some of them, perhaps, but the substance of them ought to appear in the record.

Mr. HANLEY. I understand that they are in for one purpose, to show familiarity of Leake with the judge, and not for the purpose of commenting upon their text, because the managers may not, under the guise of getting them in for one purpose, then use them for another purpose. The purpose is evident to the Chair that they ought to be limited to the purpose for which they were offered, namely, to show the relationship of the parties which in the answer has not been denied. The object of the managers is not, from our viewpoint, to limit it to that purpose, but to use in argument, viciously as we claim, the contents of the documents spoken of and to then charge that because it was introduced for one purpose it was introduced for all.

I make this statement at this time because we do not want to be misunderstood. If we had to try that issue we could try it, but it is not an issue before the Senate. Therefore I say to the President of this body, sitting as the presiding officer of the court, that he should limit its introduction with the understanding that it is for the purpose for which it is introduced and not for some secret purpose at the end of the trial, when our mouths are closed, to say this and that when we have no chance to reply.

The PRESIDING OFFICER. May the Chair inquire of the managers on the part of the House whether it would not be satisfactory to state from the documents and whether it would not be satisfactory to counsel for the respondent to state from the documents briefly what they show that would be material under the ruling of the present occupant of the chair?

Mr. Manager PERKINS. On behalf of the managers on the part of the House, we deem it important to have sufficient of these records in to apprise the trial body of the nature of the course of conduct between the respondent in this case and Mr. Leake and Mr. Gilbert. It would be quite impossible for us merely to state briefly the nature of the paper, because it is important for all the trial body to be able to see what the papers are insofar as they are admissible in evidence, in order to set out the course of conduct in which the respondent month by month appointed Mr. Gilbert receiver and appointed Mr. Leake receiver, and paid them fees, and to show that the fees were exorbitant fees.

The PRESIDING OFFICER. How do you propose to show they were exorbitant fees?

Mr. Manager PERKINS. I might take one case. We will show that in a certain case the respondent allowed a fee of $500 to one of these receivers for appraising a piece of property that he never looked at, but all he did was to sign the affidavit of value.

The PRESIDING OFFICER. Do you propose to call witnesses to show that fact?

Mr. Manager PERKINS. We will show it by the witnesses already subpenaed here. We will show it by Mr. Leake when he appears, if he does appear. We will show it by Mr. Gilbert, who will appear and I understand is in town.

The PRESIDING OFFICER. The present occupant of the chair does not think we ought to go into collateral issues involved in any of the cases in which the respondent was acting as judge of some State court. He thinks it might be material to show the various appointments of the men who are involved in the present complaint, and that is the extent to which the papers are pertinent to this issue. It is always difficult, of course, to admit a paper for one purpose and prevent it being used for another purpose. If a paper is admissible at all and counsel insist upon it being considered in evidence, the Chair does not quite know how it can be excluded if it is admissible for any purpose.

Mr. HANLEY. The point I make is this. Very often, for instance, an affidavit reciting a lot of facts is put forth in a paper introduced for one purpose for identification. We cannot argue the truthfulness of that affidavit when it was limited to the purpose to which it was directed. The point we make is that we are not trying any State court cases. If we were, we would meet them. The point is that these papers are not being introduced for the purpose stated, but for the purpose of hammering us at the close when we are concluded in our defense with relation to this matter. I want to warn the Senate right now that that is the purpose, and I predict that is the purpose, and therefore it is irrelevant and incompetent. It is not jurisdictional to this body and therefore, if the paper is admitted at all, it ought to be for the purpose of showing the intimacy and none other.

The PRESIDING OFFICER. Will counsel for the respondent agree that there may be read into the record the various times these men were appointed and the amount of fees paid them, and then have the papers excluded?

Mr. HANLEY. For that purpose we have no objection.

The PRESIDING OFFICER. Is that satisfactory to the managers?

Mr. Manager PERKINS. That is not satisfactory to the managers on the part of the House. The papers are not very long. If this were a trial before a jury it would be a different thing, but we must take into consideration that all the members of the trial body are not here all the time and this record must be perused by them before decision can be had. It is of prime importance on the part of the managers to show the course of dealing between Judge Louderback and Gilbert and Leake that runs through the years in which he constantly appointed these men receivers.

The PRESIDING OFFICER. The Chair has stated two or three times that the paper is admissible and has suggested that there be read into the record the date, the name of the case, and the amount. The Chair inquires whether that is not all that is in these records that is pertinent to this issue? If you can later by subsequent witnesses show that in some particular case there was paid an excessive fee, that is an entirely different matter, but that can be done without introducing the records.

Mr. McKELLAR. Mr. President, may I make an inquiry of the Presiding Officer? Have these records or documents been offered in evidence? Has there been a motion to offer them in evidence?

The PRESIDING OFFICER. The understanding of the Chair is that they are now being offered in evidence.

Mr. McKELLAR. Does the Chair hold they cannot be admitted in evidence except for a specific purpose?

The PRESIDING OFFICER. That is correct.

Mr. McKELLAR. That is the holding of the Chair?

The PRESIDING OFFICER. That they may be offered for a specific purpose.

Mr. McKELLAR. What recourse have those of us who are members of the court who believe that these records ought to go in for whatever they are worth?

The PRESIDING OFFICER. The statement by the managers will be a part of the record and it will be admitted by counsel for the respondent that it constitutes a part of the record.

Mr. ASHURST. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from Arizona will state the point of order.

Mr. ASHURST. Rule VII, at page 89, prescribes particularly and definitely just how a ruling may be appealed from. I ask that the clerk may read rule VII.

Mr. McKELLAR. I hope the clerk will do so, because I want some information about it.

Mr. ASHURST. The point of order is not debatable.

Mr. McKELLAR. A point of order is always in order and I think members of the court ought to know something about it when these questions arise. We ought to know what the facts are and what the rule is.

The PRESIDING OFFICER. The clerk will read the rule.

The Chief Clerk read as follows:

VII. The Presiding Officer of the Senate shall direct all necessary preparations in the Senate Chamber, and the Presiding Officer on the trial shall direct all the forms of proceedings while the Senate is sitting for the purpose of trying an impeachment and all forms during the trial not otherwise specially provided for. And the Presiding Officer on the trial may rule all questions of evidence and incidental questions, which ruling shall stand as the judgment of the Senate, unless some Member of the Senate shall ask that a formal vote be taken thereon, in which case it shall be submitted to the Senate for decision; or he may, at his option, in the first instance, submit any such question to a vote of the Members of the Senate. Upon all such questions the vote shall be without a division, unless the yeas and nays be demanded by one fifth of the Members present, when the same shall be taken.

Mr. McKELLAR. Mr. President, I desire, if it is now in order, to have a vote by the Senate, sitting as a Court of Impeachment, on the admissibility of these papers.

Mr. BRATTON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BRATTON. Do I understand that the managers on the part of the House have requested that these documents be printed in the RECORD?

The PRESIDING OFFICER. That is the Chair's understanding.

Mr. BRATTON. That is the question about to be submitted?

The PRESIDING OFFICER. The Chair has reached a very definite conclusion about the question so far as the admissibility of these papers is concerned. They are admissible for one purpose. The Chair was seeking to have counsel on each side agree by suggesting to the counsel for the respondent whether they would consent that there might be read into the record from these papers the names of the cases, the names of the persons appointed, and the amount of fees paid them, the thought of the Chair being that if that were done it would not then be necessary to admit the papers themselves.

Mr. BRATTON. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BRATTON. The precise question pending is whether the documents shall be printed in the RECORD?

The PRESIDING OFFICER. That is the offer made by the managers on the part of the House.

Mr. McKELLAR. Mr. President, I think we should have the yeas and nays on that subject.

The PRESIDING OFFICER. The Chair thinks this question is of considerable importance and ought to be submitted to the Senate. Is there a second to the demand for the yeas and nays?

The yeas and nays were ordered.

Mr. ASHURST. Let the question be stated.

Mr. McKELLAR. Will the Chair state the question?

The PRESIDING OFFICER. The question is——

Mr. TOWNSEND. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Costigan	Kean	Reed
Ashurst	Couzens	Kendrick	Robinson, Ark.
Austin	Cutting	Keyes	Robinson, Ind.
Bachman	Dickinson	King	Russell
Bailey	Dill	La Follette	Schall
Barkley	Duffy	Logan	Sheppard
Black	Erickson	Long	Shipstead
Bratton	Fess	McAdoo	Smith
Brown	Fletcher	McCarran	Steiwer
Bulkley	Frazier	McGill	Stephens
Bulow	George	McKellar	Thomas, Utah
Byrd	Glass	McNary	Townsend
Byrnes	Gore	Metcalf	Tydings
Capper	Hale	Murphy	Vandenberg
Carey	Harrison	Neely	Van Nuys
Clark	Hastings	Norris	Wagner
Connally	Hatfield	Nye	Walcott
Coolidge	Hayden	Patterson	Wheeler
Copeland	Hebert	Pope	White

The PRESIDING OFFICER. Seventy-six Senators having answered to their names, a quorum is present.

The question to be submitted to the Senate is whether the certified copies of certain records offered by the managers on the part of the House shall be printed in the RECORD.

Mr. McKELLAR. Mr. President, a parliamentary inquiry. As I understand, the papers were offered in evidence and a request was made that they be printed in the RECORD. Am I correct about that?

The PRESIDING OFFICER. That is the question.

Mr. McKELLAR. The Chair stated it as simply a question of their being printed in the RECORD. The question is whether they shall be received in evidence and printed in the RECORD, as I look at it.

Mr. BRATTON. I call for the yeas and nays.

Mr. LOGAN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Kentucky will state it.

Mr. LOGAN. As I understand, these records have been offered, and it was suggested that they showed the relationship between the respondent and Mr. Gilbert and Mr. Leake; and the Chair ruled that so far as they showed that either of these parties had been appointed receiver, and the amount of fee, they should go in the record as evidence, but that the remainder of the records should not be admitted in evidence. Are we voting on whether the remainder of the records shall be admitted as evidence or whether they shall simply be printed in the RECORD?

The PRESIDING OFFICER. The managers on the part of the House offered these papers for the RECORD. Objection was made, and, after argument, the Chair held that these records were pertinent for one purpose, namely, to show the connection between the persons named in the papers and the respondent. The Chair sought to have the counsel on both sides agree that the material parts should be read into the record; but that was not satisfactory to the managers on the part of the House, who insisted that the whole records should be admitted. Counsel for the respondent objects to that because there are many things in the records themselves that are not in any sense material; and the question is whether or not the papers offered for the RECORD shall be admitted.

Mr. LOGAN. Mr. President, a further parliamentary inquiry. Is not the question before the court whether the ruling of the Chair shall be sustained?

The PRESIDING OFFICER. No; the Chair has not ruled upon it. The Chair is submitting the question, being unable to have counsel on both sides agree with respect to it, and it being a matter of some importance.

Mr. LOGAN. Just one further question.

The PRESIDING OFFICER. The Senator will state it.

Mr. LOGAN. I understood that the Chair did rule, and that the Senator from Tennessee [Mr. MCKELLAR], under rule VII, questioned the ruling and asked that the vote of the Senate be taken on it. Am I wrong about that?

The PRESIDING OFFICER. The Chair did not make any definite ruling. The Senator from Arizona [Mr. ASHURST] called attention to the rule, which is to the effect that the question may be submitted to the Senate.

Mr. LONG. Mr. President——

Mr. MCKELLAR. Mr. President, I think the Chair should state that the Senator from Tennessee did understand that the Chair had made a ruling, and under rule VII he asked for a vote of the Senate on that ruling.

The PRESIDING OFFICER. The Chair did not understand the Senator from Tennessee to make any such statement.

Mr. MCKELLAR. The RECORD will show for itself.

The PRESIDING OFFICER. The Chair did not make any definite ruling upon the question. If the Senator from Tennessee made that statement with respect to the ruling of the Chair, the Chair will correct his statement.

Mr. LONG. Mr. President, a point of order.

Mr. LA FOLLETTE. Mr. President, a point of order. Is this matter debatable?

The PRESIDING OFFICER. Not at all.

Mr. LONG. A point of order. I desire to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. LONG. Is it not permissible for a member of the court to move now that we disregard all rules of evidence and just let them put in what they want to? That will be better, and will save time.

Mr. LA FOLLETTE. I submit that that is not a parliamentary inquiry.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk proceeded to call the roll.

Mr. BAILEY (when Mr. REYNOLDS' name was called). I desire to announce that my colleague the junior Senator from North Carolina [Mr. REYNOLDS] is detained by illness.

The roll call was concluded.

Mr. HEBERT. I desire to announce that the Senator from Maryland [Mr. GOLDSBOROUGH], the Senator from New Jersey [Mr. BARBOUR], and the Senator from Vermont [Mr. DALE] are detained on official business, and that the Senator from Pennsylvania [Mr. DAVIS] is detained on account of illness.

The result was—yeas 67, nays 4, as follows:

YEAS—67

Adams	Brown	Clark	Dill
Ashurst	Bulkley	Connally	Duffy
Austin	Bulow	Coolidge	Erickson
Bachman	Byrd	Copeland	Fess
Barkley	Byrnes	Costigan	Fletcher
Black	Capper	Couzens	Frazier
Bratton	Carey	Cutting	George
Glass	Long	Nye	Steiwer
Hastings	McAdoo	Patterson	Stephens
Hatfield	McCarran	Pope	Thomas, Utah
Hayden	McGill	Reed	Townsend
Hebert	McKellar	Robinson, Ark.	Vandenberg
Kean	McNary	Robinson, Ind.	Van Nuys
Kendrick	Metcalf	Russell	Wagner
Keyes	Murphy	Sheppard	Walcott
King	Neely	Shipstead	Wheeler
La Follette	Norris	Smith	

NAYS—4

Bailey	Dickinson	Logan	Schall

NOT VOTING—19

Bankhead	Davis	Lewis	Trammell
Barbour	Goldsborough	Norbeck	Tydings
Bone	Gore	Pittman	Walsh
Caraway	Hale	Reynolds	White
Dale	Harrison	Thomas, Okla.	

The PRESIDING OFFICER. On this vote the yeas are 67 and the nays are 4, so the papers are admitted.

Mr. Manager PERKINS. Mr. President, we offer in evidence a certified copy of an order made by the respondent, Judge Harold Louderback, dated August 23, 1927, appointing W. S. Leake, of the Fairmont Hotel, and two other appraisers.

(See U.S.S. Exhibit 8.)

Mr. Manager PERKINS. We offer a certified copy of appraisement of value, signed by W. S. Leake and two others, and dated the 1st of September 1927.

(See U.S.S. Exhibit 9.)

Mr. Manager PERKINS. We offer a certified copy of an order made by the respondent, Judge Harold Louderback, dated October 18, 1927, appointing W. S. Leake receiver.

(See U.S.S. Exhibit 10.)

Mr. Manager PERKINS. We offer a certified copy of order made by Judge Harold Louderback dated October 27, 1927, appointing W. S. Leake receiver.

(See U.S.S. Exhibit 11.)

Mr. Manager PERKINS. We offer a certified copy of order made by the respondent, Harold Louderback, dated November 8, 1927, appointing W. S. Leake receiver.

(See U.S.S. Exhibit 12.)

Mr. Manager PERKINS. We offer a certified copy of receiver's report dated November 29, 1927, signed by W. S. Leake, receiver.

(See U.S.S. Exhibit 13.)

Mr. Manager PERKINS. We offer a certified copy of oath of W. S. Leake as receiver, dated December 8, 1927, and order signed by Judge Harold Louderback, respondent, settling and allowing first and final account of receiver, dated January 14, 1928.

(See U.S.S. Exhibit 14.)

Mr. Manager PERKINS. We offer a certified copy of bill dated December 21, 1927, by W. S. Leake for $500 for appraising the estate of Howard Brickell.

(See U.S.S. Exhibit 15.)

Mr. Manager PERKINS. We offer a certified copy of order made by the respondent, Harold Louderback, dated December 30, 1927, appointing W. S. Leake receiver.

(See U.S.S. Exhibit 16.)

Mr. Manager PERKINS. We offer a certified copy of bill of G. H. Gilbert for $500, dated December 21, 1927, for acting as appraiser of the estate of Howard Brickell under the appointment of Judge Louderback.

(See U.S.S. Exhibit 17.)

Mr. Manager PERKINS. Mr. President, earlier in this morning's session it was stated by the managers on the part of the House that the witness Dittmore, subpenaed duces tecum to produce the records of the Hotel Fairmont, in San Francisco, was present in this city, was suddenly attacked by illness, was taken to the hospital, and that an operation was performed upon him. We now ask counsel for the respondent whether they will admit, without the presence of Mr. Dittmore to identify them, the records produced by Mr. Dittmore under the subpena duces tecum.

Mr. LINFORTH. Mr. President, we announced this morning that if we were afforded an opportunity of examining the papers to which counsel refers, no doubt we could come to some satisfactory arrangement; but we have not

been able as yet to examine the papers to which he refers, and do not know what they are.

The PRESIDING OFFICER. Will the papers referred to be submitted to counsel for the respondent for their examination?

Mr. Manager PERKINS. In response to the inquiry of the President, we are now submitting the papers in question to the counsel for the respondent.

Mr. President, we desire to call Mr. J. A. Wainwright as a witness.

RECESS

Mr. LINFORTH. Mr. President, if it may be in order, may we have a recess for about 10 minutes? We have been here for 3 hours without interruption.

Mr. KING. Mr. President, I take the liberty of moving that the Senate, sitting as a Court of Impeachment, order a recess for 10 minutes.

The PRESIDING OFFICER. The question is on the motion of the Senator from Utah.

The motion was agreed to; and (at 12 o'clock and 57 minutes p.m.) the Senate, sitting as a Court of Impeachment, took a recess. On the expiration of the recess the Senate, sitting as a court, reassembled.

CALL OF THE ROLL

Mr. McNARY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The Chief Clerk called the roll, and the following Senators answered to their names:

Adams	Copeland	Kendrick	Russell
Ashurst	Costigan	Keyes	Schall
Austin	Couzens	King	Sheppard
Bachman	Cutting	La Follette	Shipstead
Bailey	Dickinson	Lewis	Smith
Bankhead	Dill	Logan	Steiwer
Barbour	Duffy	Long	Stephens
Barkley	Erickson	McAdoo	Thomas, Okla.
Black	Fess	McCarran	Thomas, Utah
Bone	Fletcher	McGill	Townsend
Bratton	Frazier	McKellar	Trammell
Brown	George	McNary	Tydings
Bulkley	Glass	Metcalf	Vandenberg
Bulow	Goldsborough	Murphy	Van Nuys
Byrd	Gore	Neely	Wagner
Byrnes	Hale	Norris	Walcott
Capper	Harrison	Nye	Walsh
Caraway	Hastings	Patterson	Wheeler
Carey	Hatfield	Pope	White
Clark	Hayden	Reed	
Connally	Hebert	Robinson, Ark.	
Coolidge	Kean	Robinson, Ind.	

The PRESIDING OFFICER. Eighty-five Senators having answered to their names, a quorum is present.

EXAMINATION OF HARRY L. FOUTS

Mr. Manager PERKINS. Mr. President, we have subpenaed duces tecum the deputy clerk of the United States District Court for the Northern District of California to produce papers in the case of Waukesha Motor Co. against Fageol Motors. I should like to have him sworn just for the purpose of identifying the record.

The PRESIDING OFFICER. The witness may be called and sworn.

Harry L. Fouts, having been duly sworn, was examined and testified as follows:

By Mr. Manager PERKINS:

Q. Please state your full name and place of residence.—A. Harry L. Fouts, San Francisco, Calif.

Q. Are you connected with the United States District Court for the Northern District of California?—A. Yes, sir.

Q. In what capacity?—A. Deputy clerk.

Q. Have you been subpenaed to produce the papers in the case of Waukesha Motor Co. against Fageol Motors Co.?—A. Yes, sir.

Q. Have you produced them?—A. Yes, sir.

Q. I show you four papers. Are they from the file in that case?—A. They are.

Q. Do they constitute the original bill of complaint, the answer, the order appointing a receiver, and the order approving bond in that case?—A. Yes, sir.

Mr. Manager PERKINS. That is all.

Mr. HANLEY. We have no questions.

The PRESIDING OFFICER. The witness is excused.

Mr. Manager PERKINS. I offer in evidence the bill of complaint in the case of Waukesha Motor Co. against Fageol Motors Co. in the United States District Court for the Northern District of California, the answer to the bill of complaint, the order appointing G. H. Gilbert receiver, and the order approving the receiver's bond in the sum of $50,000.

The PRESIDING OFFICER. Is there objection to the admission of the papers?

Mr. HANLEY. No objection.

The PRESIDING OFFICER. They will be admitted in evidence.

(See U.S.S. Exhibits 18, 19, 20, and 21.)

EXAMINATION OF JAMES A. WAINWRIGHT

James A. Wainwright, having been duly sworn, was examined and testified as follows:

By Mr. Manager PERKINS:

Q. Mr. Wainwright, state your full name, address, and business.—A. My name is James A. Wainwright. I live in the city of Oakland, State of California. I am vice president of the Central Bank of Oakland, Calif.

Q. Have you a profession in addition to the present business?—A. No, sir.

Q. Are you an attorney at law?—A. I am not practicing law; no.

Q. Have you been admitted to the bar?—A. No, sir.

Q. In your official position with the Central Bank of Oakland have you any knowledge of the claim your bank had against the Fageol Motors Co.?—A. Yes, sir.

Q. Do you know how much your claim was?—A. Approximately $174,000.

Q. Was your bank the largest claimant?—A. The largest unsecured claimant.

Q. Did you have a conference with various attorneys with reference to putting the Fageol Motors Co. into the hands of receivers?—A. Yes, sir.

Q. As the result of that conference, please state what took place.—A. We had, 4 or 5 days prior to the filing of the petition for a receiver, conferences with representatives of the creditors and the attorneys for the company.

Q. Did you attend at the office of Judge Louderback with any attorneys in reference to the filing of a bill of complaint and answer just admitted in evidence a moment ago?—A. Yes, sir.

Q. When was that?—A. On the morning of February 17, 1932.

Q. Who were present?—A. Mr. Harvey Frame, chief counsel of the Waukesha Motor Co.; Mr. Licking, associate counsel for the Waukesha Motor Co., of Oakland, Calif.; Mr. Roy Bronson, attorney for the Fageol Motors Co. Those are the attorneys.

Q. What time did you appear there on that day?—A. It was between 11 and 12 o'clock.

Q. Do you know the purpose of the visit of this group of men to the office of Judge Louderback?—A. Yes, sir.

Q. What was the object?—A. To advance our nominee for receiver of the Fageol Motors Co., and to discuss the qualifications of our nominee.

Q. Had you gentlemen previously had conferences with reference to the proper person or a proper person to be appointed receiver of the Fageol Motors Co.?—A. Yes, sir.

Q. How large a corporation was Fageol Motors?—A. The Fageol Motor Corporation—there are two corporations involved. One is the Fageol Motors Co., the assembly corporation, or the corporation doing the manufacturing and assembly work. Then there was the Fageol Motor Sales Co., which was the sales organization, both California corporations.

Q. Were they both put in the hands of receivers?—A. They were both put in the hands of receivers.

Q. How large corporations were they?—A. The Fageol Motor Sales Co. was of a nominal capitalization, I believe $10,000. The Fageol Motors Co. was of $3,000,000 capitalization, about eight hundred and some odd thousand of which had been paid in in cash.

Q. Where was the business of the Fageol Motors Co.?—A. The main plant was in Oakland, Calif., with branches in Seattle, Portland, Los Angeles, San Francisco, and a sales agency in Honolulu.

Q. Can you tell us approximately the amount of the assets of the Fageol Motors Co.?—A. I should like to refer to the auditor's report. If my memory serves me right, $2,500,000 was the book value of the assets as of the date of the appointment of the receiver. (After referring to papers.) The total assets of the Fageol Motors Co. and the Fageol Motor Sales Co. as of February 17, 1932, was $2,538,581.87.

Q. Can you tell us the amount of the indebtedness of that company at that time?—A. The liabilities of the company, outside of its capital stock, $2,199,617.52.

Q. You appeared with attorneys there for the purpose of having a receiver appointed?—A. Yes, sir.

Q. Had the persons interested in the assets of this corporation previously discussed who would make a suitable receiver?—A. For about 4 or 5 days prior to the filing of the petition.

Q. Had you any difficulty in arriving at the name of a nominee?—A. Yes, sir.

Q. Did you finally agree upon a man suitable, in your judgment?—A. Yes, sir.

Q. What was his name?—A. Edward Tuller, of Oakland, Calif.

Q. When you appeared at Judge Louderback's office, did the group see the judge then?—A. No, sir.

Q. What was done?—A. We made three trips to the judge's office.

Q. Tell us about the first trip.—A. The first trip, if my memory serves me right, was timed to reach him as he came off the bench at 12 o'clock. We went to his secretary, who informed us that the judge would sit through to 1 o'clock, and to come back a few minutes before 1, when we could see the judge.

Q. Were the papers left there?—A. Yes, sir.

Q. What is the name of the secretary to Judge Louderback?—A. I think it is Miss Berger.

Q. Was she informed of the purpose of the visit?—A. Yes, sir.

Q. And of the name of this person who was suitable as receiver?—A. Yes, sir.

Q. What previous connection did Mr. Tuller have with the automotive industry?—A. He was an official of the Durant Motor Car Co.; a man of wide business acquaintance and ability, considerable ability; a man who was pretty well fixed financially.

Q. Did this group return at 1 o'clock, or later?—A. We returned about 5 minutes to 1.

Q. Did you see Judge Louderback then?—A. No, sir.

Q. What were you informed then?—A. The secretary said the judge got through a little early, and to come back at 2:30.

Q. Did the group return at 2:30?—A. About 2:20.

Q. Did you see Judge Louderback then?—A. I saw Judge Louderback pass us in the hall a short way from the entrance to the secretary's office.

Q. You saw him pass you on the way in or out?—A. As we were going in the judge was leaving.

Q. What did you find, upon arriving at the clerk's office, with reference to the appointment of a receiver?—A. The secretary said, "What is it you want?" Mr. Bronson said, "We called with reference to the Fageol case." She said, "The judge has already appointed a receiver." Mr. Bronson said, "Who is it?" She said, "Mr. Gilbert." "What are Mr. Gilbert's initials?" "I do not know." "What is his address?" "I do not know." "What is his phone number?" "I do not know, but I will let you know later on."

Q. Did you know, or later ascertain, what Mr. Gilbert's business was?—A. Not until the following morning at 10 o'clock.

Q. Well, did you?—A. Yes, sir.

Q. What was his business?—A. I really did not finally determine what his business was until——

Q. Never mind when. What was his business?—A. He was working for the Western Union Telegraph Co.

Q. In what capacity?—A. Night superintendent, I believe.

Q. What was done to ascertain Mr. Gilbert's place of business or telephone number in addition to what you have stated?—A. When we left the Federal Building at 2:30, on being advised that Mr. Gilbert had been appointed, we then walked to Mr. Bronson's office. We proceeded to look through the phone book and the city directory to try and ascertain where Mr. Gilbert lived, or who he was; and, while we were making inquiry as to Mr. Gilbert, a phone call came from Mr. Dinkelspiel stating that he was the attorney for Mr. Gilbert.

Q. Is that the Mr. Dinkelspiel that appeared on the witness stand today?—A. No; no relation at all. This is Dinkelspiel & Dinkelspiel, attorneys in the Pacific National Bank Building, San Francisco.

Q. Did the group that attended at Judge Louderback's office at any time have an opportunity to see him and present the papers to him?

Mr. LINFORTH. Just a moment, Mr. President. We want to object to that question as calling for the witness's opinion or conclusion as to whether they had an opportunity. He can state the facts, but we maintain that his conclusions should not be given.

The PRESIDING OFFICER. The reporter will read the question.

The Official Reporter read the question, as follows:

Did the group that attended at Judge Louderback's office at any time have an opportunity to see him and present the papers to him?

The PRESIDING OFFICER. The Chair thinks the witness may answer the question if he knows—if he can answer it.

The WITNESS. We thought we were given the opportunity when we came back on two different occasions, but we did not have the opportunity of talking to him.

By Mr. Manager PERKINS:

Q. How did you ascertain who Mr. Gilbert was?—A. When Mr. Dinkelspiel phoned Mr. Bronson, the suggestion was made to Mr. Dinkelspiel that he have Mr. Gilbert meet with the creditors' committee the following morning in Mr. Bronson's office. At that meeting I was delegated by the creditors to question Mr. Gilbert as to his experience and his qualifications.

Q. Did you interrogate him?—A. Yes, sir.

Q. Did Mr. Gilbert know anything about the automotive business?

Mr. LINFORTH. Wait a minute. We object to that, Mr. President, as calling for the opinion or conclusion of the witness. He can state the facts, and the Senators, as jurors, will draw their conclusions.

The PRESIDING OFFICER. The question is an inquiry about a fact which the witness may or may not be able to answer.

The WITNESS. I will tell you what I said to Mr. Gilbert. I told Mr. Gilbert that I was representing the largest creditor of the Fageol Motors Co., and as such I was particularly interested as to his qualifications to carry on that work; that we creditors had been 4 or 5 days debating and determining upon a proper man. I questioned him at length; and as a result of that questioning I learned that he had been connected with the Sonora receivership, the Prudential, and he did state some connection with an apartment house. His remarks did not satisfy us. We did not get a great deal of information from him.

I then asked him if he would cooperate with the creditors in the operation of the company.

Q. Did Mr. Gilbert state that he ever had any connection with the automotive business at any time in his life?—A. On a direct question from me, he answered "No."

Q. Did you ask him whether he knew anything about the business?—A. Yes, sir.

Q. What did he say?—A. "No."

Q. Had he ever been in business for himself in any industry?—A. I do not believe he had. I do not recall his stating that he had.

Q. As a matter of fact, he had been a telegrapher for thirty-odd years; had he not?—A. We did not learn that until later.

Q. Did you learn it later?—A. About 4 or 5 days later one of the other large creditors communicated to me that they had learned that he was associated with the Western Union Telegraph Co.

Q. As a result of your talk with Mr. Gilbert, was anything said about putting the Fageol Motors Co. into bankruptcy to get away from his being a receiver?—A. Yes, sir.

Q. What was stated?—A. We stated to Mr. Gilbert very frankly that unless we got cooperation from him we would proceed to put the company in bankruptcy, because in bankruptcy we could control the election of a trustee. When I say "we", I am speaking as the chairman of the creditors' committee.

Q. Did he agree to cooperate with you?—A. Yes, sir.

Q. What did Mr. Gilbert do, so far as you know, in operating this Fageol Motors Co.?—A. He gave us the utmost cooperation, but he possessed no ability to carry on the work.

Q. What do you mean by "cooperation"?—A. Everything that was suggested to him by the creditors' committee he willingly and cheerfully did.

Q. Did he do anything else?—A. Well, I know of no original ideas of his.

Q. Did the Fageol Motors Co. have a large amount of insurance on its plant and property at the time of the appointment of the receiver?—A. Considerable insurance.

Q. What did Mr. Gilbert do with reference to that?—A. I do not know whether it was Mr. Gilbert or Mr. Dinkelspiel that arranged the insurance. I did not at that particular time pay a great deal of attention to the insurance.

Q. Do you know whether Mr. Gilbert employed certain accountants to go over the books of the company?—A. Yes, sir.

Q. Who were the accountants?—A. Lybrant, Ross Bros. & Montgomery.

Q. Why did he employ these accountants?—A. He employed the accountants at my suggestion, or the suggestion of a member of the creditors' committee.

Q. What was the nature of the work that was suggested to be done?—A. An audit of the affairs of the Fageol Motors Co.

Q. Embracing what period?—A. I do not believe that we put any particular stress as to operations. It was more to determine the value of the assets.

Q. How much was the bill for these accountants' services?—A. Fifteen thousand dollars, and another $2,000 in the ancillary proceedings in Portland, Oreg.; or a total of seventeen thousand and some odd dollars.

Q. What was the final disposition of the Fageol Motors case?—A. It was put in bankruptcy on July 19 or 20, 1932.

Q. Why?—A. It was shown that the company could not operate successfully in receivership, because it was difficult to sell a motor car with a company in receivership.

Q. Did the company operate, manufacture, under the receivership?—A. Yes, sir.

Q. For how long a period?—A. From February 17 to the date of bankruptcy.

Mr. Manager PERKINS. You may cross-examine.

Cross-examination by Mr. LINFORTH:

Q. Mr. Wainwright, you have stated that the Central National Bank, with which you were connected, was the largest unsecured creditor.—A. Yes, sir.

Q. Who was the next largest unsecured creditor?—A. The Waukesha Motor Co.

Q. Do you recall the amount of its claim?—A. Approximately $92,000.

Q. Is it the fact that its claim and the claim of your bank embraced about 25 percent of the unsecured debts of the Fageol Motors Co.?—A. I believe you are right.

Q. At the meeting which you had in Mr. Bronson's office at which Mr. Dinkelspiel and Mr. Gilbert were present, I understood you to say that you, representing the meeting of the creditors or the committee of the creditors, desired to know of him and his counsel whether they would cooperate with you?—A. Yes, sir.

Q. Cooperate with you to what extent? Did you advise them?—A. Follow the advice and counsel of the creditors in the operation of the company.

Q. And you have stated that it was a going concern under the receivership down to the time of the bankruptcy proceeding?—A. Correct.

Q. Did you, from that time down to the time of the termination of the receivership, come in daily contact with Mr. Gilbert and his attorneys, Dinkelspiel & Dinkelspiel?—A. Yes, sir.

Q. And during that period of time was there any matter of policy suggested by you as the head of the committee of creditors that the receiver and his counsel did not act upon?—A. Not one single matter.

Q. So that so far as cooperation is concerned, you received in the running of this business under the receiver and his attorney 100-percent cooperation all the time, did you not?—A. Correct.

Q. You had no complaint whatever to make in regard to Mr. Gilbert or in regard to his counsel during any part of that time?—A. No, sir.

Q. Who was the president of that company at the time Mr. Gilbert went in as receiver?—A. Mr. L. H. Bill.

Q. And did he have some relative also connected with the company?—A. Yes, sir.

Q. Do you recall what the salary was that Mr. Bill and his relative were drawing from the company at the time the receiver was appointed?—A. I do not recall. I did have something to do with cutting their salaries prior to the receivership.

Q. You had cut them, had you not, down to the time of the appointment of the receiver, to the point of a thousand dollars a month for the two?—A. I do not know the exact amount. I think that is approximately what it was.

Q. You think a thousand dollars, approximately, was the amount at the time of the receivership?—A. I think so.

Q. Did the receiver discharge Mr. Bill and his relative?—A. Yes, sir.

Q. How soon after his appointment did he discharge both of them?—A. There was a considerable lapse of time.

Q. Within a month?—A. I think it was a little bit longer than a month.

Q. What is your best recollection?—A. I would say it was about some time in the early part of April. I may be wrong.

Q. And that effected a saving of a thousand dollars a month for the company?—A. Well, it eliminated an accumulation of salaries, of course.

Q. Did Mr. Gilbert, soon after his appointment, appoint a Mr. Lundstrom as assistant to him?—A. Yes, sir.

Q. Did you recommend the appointment of Mr. Lundstrom?—A. Yes, sir.

Q. And he was appointed by Mr. Gilbert?—A. Yes, sir.

Q. At a salary of what?—A. I believe he put him in at $200 a month and shortly thereafter raised him to $400 a month.

Q. Was anyone else appointed in the place of Bill and his relative except Mr. Lundstrom?—A. Yes, sir.

Q. Who else?—A. Mr. Solatchi.

Q. And he was an accountant?—A. He was connected with Lybrand, Ross Bros. & Montgomery.

Q. If Mr. Tuller, the gentleman whom you had recommended, had been appointed receiver, could you have gotten any better cooperation from him than you obtained from Mr. Gilbert and his attorneys?—A. I do not believe so, because Mr. Gilbert cooperated with us in everything we asked him to do.

Q. Upon the severance of Mr. Gilbert's relations with the company as receiver, did you give to him or his attorneys, Dinkelspiel & Dinkelspiel, any letters?—A. Yes, sir.

Q. I call your attention to a photostat of a letter of date May 4, 1932. Is that the letter which you gave him at that time?—A. (Examining.) Yes, sir.

Mr. LINFORTH. We offer the letter as part of the cross-examination of the witness.

Mr. Manager PERKINS. The managers on the part of the House object to that. It is not evidence in this case, but is merely corroborative of what the witness has said, that this Mr. Gilbert gave them cooperation. The fact that he wrote a letter cannot be evidence in this matter.

The PRESIDING OFFICER. What is the purpose of it?

Mr. LINFORTH. The purpose is to show this: It is claimed and maintained here by the gentlemen representing the House that Mr. Gilbert was an incompetent person to act as receiver. It appears from the testimony of the witness now upon the stand that he was the head or chairman of the creditors' committee, who came in constant and daily touch with Mr. Gilbert and his attorneys during the entire time of their activity. We propose to show how the witness upon the stand regarded both the attorneys and the receiver at the end of the receivership, and for that purpose we offer the letter, which may be submitted to the President, if he desires to see it.

Mr. Manager PERKINS. The letter offered is only the product of the witness, and the witness is on the stand. Certainly something he wrote a year or two ago cannot be evidence in this case, when he is here himself to testify.

Mr. LINFORTH. It is a letter written at the time of the completion of the service.

The PRESIDING OFFICER. Has it been identified by the witness?

Mr. LINFORTH. Yes; it has been identified.

The PRESIDING OFFICER. Let it be admitted.

Mr. LINFORTH. The letter is upon the letterhead of the Central National Bank, of Oakland, dated May 4, 1932, and is as follows:

U.S.S. EXHIBIT No. 22

Mr. JOHN WALTON DINKELSPIEL,
Attorney at Law, San Francisco, Calif.

DEAR SIR: In view of the recent publicity in connection with the Fageol Motors Co. receivership, I feel it is only fair that you receive this expression of our feelings as to the attitude of your office and Mr. G. H. Gilbert thus far in this receivership.

You both have shown a desire to cooperate and have cooperated with the creditors to the fullest extent, and I feel that as a result of this mutual cooperation a businesslike administration will obtain.

Yours truly,

JAS. A. WAINWRIGHT.

By Mr. LINFORTH:

Q. Mr. Wainwright, following that did you give a letter to Mr. Gilbert?—A. Yes, sir.

Q. I have not the original of that letter, but I call your attention——A. (Interrupting.) I have a copy of it.

Q. Have you a copy of it?—A. Yes, sir.

Q. I will thank you if I may take it. This letter is of date July 28, 1932, and is addressed to G. H. Gilbert, Esq. Is that a true copy of the letter which you gave Mr. Gilbert at that time?—A. Yes, sir.

Q. Your signature being attached to the original?—A. Yes, sir.

Mr. LINFORTH. We offer this letter as part of the cross-examination of the witness, Mr. President.

The PRESIDING OFFICER. The same objection will be made, I assume?

Mr. Manager PERKINS. Assuming the same ruling will be made, there is no objection.

The PRESIDING OFFICER. Let it be admitted.

Mr. LINFORTH. I will read it. It is as follows:

U.S.S. EXHIBIT No. 23

JULY 28, 1932.

G. H. GILBERT, Esq.,
Fageol Motors Co., Oakland, Calif.

DEAR SIR: It is my pleasure at this time to acknowledge my appreciation for the cooperation extended me as a representative of this bank in the matter of the Fageol receivership.

You at all times were willing and did listen to and heed the advice and counsel of the writer and other representatives of the large creditors.

I wish you success in any future undertaking and trust that, though your connection with the Fageol Co. is at an end, I may have the pleasure of seeing you in the future whenever you have occasion to be in Oakland.

With my kindest well wishes, I am, yours sincerely,

JAS. A. WAINWRIGHT.

By Mr. LINFORTH:

Q. In your talk with Mr. Gilbert, he advised you that he was the night superintendent, I think you said, of the Western Union Telegraph Co.?—A. No; Mr. Gilbert did not at that time. At the first meeting with Mr. Gilbert, the morning after, that would be on the 18th of February, we did not hear from him that he had any connection with the Western Union Telegraph.

Q. Did you subsequently ascertain that his connection with that company was as you have stated?—A. I believe that was night superintendent.

Q. Did you also ascertain that he had been with that company for 35 years continuously?—A. He told me that he had been with them a great number of years. I figured that it was 22, as I remember.

Q. Your recollection is 22?—A. Yes.

Q. Did he also tell you that in the capacity in which he was then employed by that company he had under him more than 100 employees?—A. No, sir.

Q. Did you ask him the number of employees who were under him during the time he occupied that position with the Western Union Telegraph Co.?—A. No, sir.

Q. Did you ascertain that, in order to enable him to act as receiver, the Western Union Telegraph Co. had given him a furlough or a leave of absence of 6 months?—A. No; we did not at that time. In fact, it was sometime later I heard that he had been working for a week or so for the Western Union after he had taken the position as receiver of the Fageol.

Q. During the time he was acting as receiver of the Fageol Motors Co., do you know what hours he was devoting to those duties?—A. He spent considerable time at the plant.

Q. The entire day?—A. I did not spend the entire day there myself, but every day that I went out Gilbert was there.

Q. Do you recall an application being made for his compensation and for the compensation of his attorneys in that case?—A. Yes, sir.

Q. Do you remember what was the amount each desired, according to their application?—A. We creditors agreed that a fee of $10,000 for Dinkelspiel & Dinkelspiel as attorneys would not be contested by the creditors, and a fee of $6,000 for Gilbert would not be contested by the creditors.

Q. That is, you and the other creditors agreed that such amounts would be reasonable, did you?—A. Yes, sir.

Q. For the services the attorneys and the receiver had rendered?—A. We felt that was a pretty good deal for us.

Q. When the matter came on for hearing before Judge Wyman, holding court in Oakland, were you present?—A. Yes, sir.

Q. And were various other creditors present?—A. Yes, sir.

Q. Did you announce, representing the creditors, that you were agreeable to the allowance to the attorneys and to the receiver in the amounts I have stated?—A. I did not personally express any idea, but the attorneys for the trustee, or the receiver in bankruptcy, at the suggestion of the creditors, stated to the court that we, the creditors, had agreed upon those fees.

Q. And you were present in court when that was stated?—A. Yes, sir.

Q. And you voiced no objection to it?—A. None at all.

Q. Was the representative of the Waukesha Motor Co., the next largest creditor, Mr. Ross, in court at that time also?—A. I am not certain whether Mr. Ross was there or not.

Q. After you gentlemen had announced, representing the creditors, that $6,000 would be reasonable to the receiver and $10,000 to the attorneys, what did the court award?—A. The court awarded $6,000 to Dinkelspiel & Dinkelspiel and $4,500 to the receiver.

Mr. LINFORTH. I have no further questions.

The PRESIDING OFFICER. Is it the desire to ask the witness any further questions?

Redirect examination by Mr. Manager PERKINS:

Q. Mr. Wainwright, the letters which have been read in evidence were written by you at the request of the recipients of the letters?—A. Yes, sir.

Q. Did they ask you for better and stronger letters?—A. Not directly. There was the inference, that is all.

Q. What did they ask you for?—A. Well, as I recall it, inasmuch as they had agreed to cooperate with us and had cooperated, that an expression from me that they had done so would be appreciated, and I was glad to do it.

Q. In other words, the word "cooperation" meant they did what the creditors' committee told them to do?

Mr. LINFORTH. I object to that as calling for the opinion and conclusion of the witness, not a statement of anything that took place.

The PRESIDING OFFICER. The Chair sustains the objection.

Mr. Manager PERKINS. I withdraw the question.

Q. What did you mean by "cooperation"?—A. That the receiver did everything that we ordered him to do.

Q. By reason of fact that a man who knew nothing about the automotive industry was appointed receiver it was necessary to employ somebody who did know how to operate this plant?—A. I thought so and so acted.

Q. Who was employed?—A. Mr. Lundstrom.

Mr. Manager PERKINS. That is all.

Recross-examination by Mr. LINFORTH:

Q. Mr. Wainwright, was there any meeting between Mr. Gilbert and Mr. Lundstrom before he was employed at your suggestion?—A. Yes, sir.

Q. And do you know if in addition to the meeting between Gilbert and Mr. Lundstrom that Mr. Gilbert made investigation as to who Mr. Lundstrom was and as to his ability?—A. He told me he had later on.

Mr. LINFORTH. That is all.

The PRESIDING OFFICER (to the witness). That will do. The managers may call the next witness.

Mr. Manager BROWNING. Call Mr. Roy Bronson.

EXAMINATION OF ROY A. BRONSON

Roy A. Bronson, having been duly sworn, was examined and testified as follows:

By Mr. Manager BROWNING:

Q. State your full name, your place of residence, and your occupation.—A. My name is Roy A. Bronson. I reside at Piedmont, Calif.; my office is in San Francisco, and I am an attorney-at-law.

Q. Did you represent the Fageol Motors Co. in 1932?—A. Yes; I did.

Q. About what time of the year was it that they got into difficulties?—A. They were in financial difficulties along in the fall of 1931, and they became critical in the early part of 1932—in January or February.

Q. What steps were taken with regard to it?—A. There was a bond house, Grant, Knowlton & Co., that had been out picking up, under contract with Fageol, some bonds for the purpose of retiring $75,000 that had to be retired on the 1st of February 1932, but Fageol was unable to pick them up, and the result was that they levied an assessment for some forty-odd thousand dollars of bonds that they had purchased and which Fageol was unable to pick up. The result was that something had to be done very quickly with the affairs of the company in order to protect the interests of all creditors.

Prior to this time, I might state, that all during January there had been a number of meetings with the officers of that company in my office, and the situation was anticipated, and we tried to negotiate with both the Pacific National Bank and Grant & Knowlton, who were the two parties who had picked up the bonds, to have them give us an extension of time, but they refused to do it, and the result was that we decided upon an equity receivership.

Q. At the time the decision was made, did you select someone whom you wanted to recommend to the court for receiver?—A. When that was determined upon, a meeting of the board of directors was held, and the board of directors decided that in the protection of the interests of both the creditors and stockholders it would be necessary to conserve the assets by a Federal equity receivership, and, of course, in order to do that, it was necessary, first, to have some creditor act in order to invoke the jurisdiction of the Federal court. The matter was discussed by me with the counsel of the Waukesha Motor Co., a large creditor, and they authorized their attorneys in Oakland to institute the proceeding, and the attorney, Mr. Licking, came over to my office, and together we prepared the petition.

Prior to that time, or at least after the petition was drawn, or at least a rough draft of it, a number of principal creditors had been gotten hold of, amongst whom were the Central National Bank and the Timken Roller Bearing Co., and also the C.I.T. Corporation, a large creditor—not a particularly large creditor, but upon a contingent liability mostly—and then Mr. Harvey Frame, of the firm of Frame & Blackstone, of Waukesha, Mich., came out to California prior to the time that this receivership was filed, and we had a number of conferences in my office in reference to who the receiver should be who would be recommended to the court. We believed at that time that any of the court would take a recommended receiver; that is, it might be that they might want to name a counsel; but in any event, if we were all agreed upon who was to be the receiver, that the chances were that such receiver would be appointed. Do you want me to continue with the story of the matter?

Q. Who was it that you agreed on?—A. We finally agreed upon a man by the name of Edward Tuller, of Oakland, a man who had been an official or connected in a managerial capacity with the Chevrolet Motor Car Co., and also a successful business man in other lines of endeavor. In these particular conversations occurring in my office the discussions centered around the nature of this particular problem.

Q. What kind of business was the Fageol Motor Co.?—A. I was just going to get to that. We were all agreed upon this fact, that it was an executive and financial undertaking, also requiring a knowledge of the automotive industry; at least, we felt that, and so we decided that in this particular case the important thing would be the kind of receiver, because at that particular time it was believed by all that the Fageol Motor Co. could be rehabilitated. What they were suffering from was an unbalanced inventory, and they did not have enough liquid capital. As a matter of fact, we had been discussing that for some time previous in getting rid of the branches which were scattered over several States; and so a large amount of money was tied up. So, of course, there were conflicting interests there. The C.I.T. Corporation at one time, the interests of the open-account creditors at another time, and the company, on the other hand, did not want to let the thing get too far out of their hands, so there was quite a squabble for a period of a couple of days before we finally arrived at an agreement among ourselves as to whom we could all join in recommending to the court. There were a great number of names discussed during these few days, and all the creditors and the company were not always agreed, but finally the result was that we did agree upon Mr. Edward Tuller.

Q. What was the nature of the business of the Fageol Motor Co.?—A. It was a manufacturing company, engaged in manufacturing motor trucks and motor busses, and is quite well known throughout the West.

Q. What size concern was it?—A. Their book resources, I think, were at that time something over $3,000,000; the capital was $3,000,000, but I remember that about only half of the preferred stock was covered and then the equity behind the common stock was about $1,000,000. The net worth of the company on the books at that time was around $2,000,000.

Q. Over what territory did this extend—how extensive was it?—A. They had branches in the States of Washington, Oregon, Utah, and California, of course, and then they had a manufacturing contract with the Fageol Motor Co., of Kent, Ohio, which was absorbed by the American Car & Foundry Motors Co.

Q. What different kinds of enterprises did they carry on besides manufacturing, if any?—A. They had their own dis-

tribution system. They had a subsidiary corporation known as the "Fageol Motors Sales Co.", which was the distributing concern, with a low capitalization in order to qualify in the various States; and the distributing organization sold at retail these various units, so that they were both a manufacturing and distributing concern.

Q. At the time the petition was drafted and was presented to Judge Louderback, were you present?—A. Yes; I was—that is, I was not present in front of the judge, no; but I was present at the time of the filing of the subsequent presentation.

Q. Who went with you to present the petition?—A. We left my office, and there were present Mr. Wainwright, of the Central Bank; Mr. Flannigan, and I think Mr. Bill, of the factory; Mr. Licking; Mr. Frame; and myself.

Q. Did you go to the judge's chambers with it after it was filed?—A. We went to the court in order to get there about 12 o'clock when the judge or the judges had come off the bench. We filed our petition, and in the northern district of California they have a system of selecting the judge to whom you go by having a group of envelopes and you do not know which particular judge it is to be assigned to.

Q. Did you see the drawing for this case?—A. Yes; there was a young lady clerk who opened the drawer and pulled out the envelope. She pulled out an envelope and the envelope was opened—these little envelopes are sealed ordinarily—and she asked one of the men over at the other end of the room if this was to be used. He apparently said, "yes", because she pulled out the number and affixed the number upon the document, and it was assigned to Judge Louderback. We then were permitted by the clerk, as a matter of courtesy, to take the petition and order appointing the receiver.

Q. Had this application received any publicity before the filing?—A. No; not to my knowledge, at least.

Q. All right; go ahead.—A. We then took the documents in to Judge Louderback's secretary, whose office is just a couple of doors down from the clerk's office, and stated that we had a petition we desired to present to Judge Louderback.

Q. Did you have any other papers except the petition?—A. We had the petition and the blank order appointing the receiver.

Q. Was any answer presented at that time?—A. Yes; the answer was also prepared, admitting the allegations of the petition and consenting to the appointment of a receiver.

Q. What occurred between you and the judge's secretary on that occasion?—A. I think that I was the one that presented the papers to her, and I advised her that we had here a petition for the appointment of a receiver for the Fageol Motor Co. and the Fageol Motor Sales Co., and that we would like to speak to Judge Louderback. I also stated that there were present representatives of the largest creditors and the representative of the plaintiff; that we had all agreed upon a person to be named as a receiver, and described briefly the nature of the business, and that we would very much like to see the judge at the earliest opportunity. She stated that the judge was not going to be off the bench at 12 o'clock, and my recollection is not perfectly clear as to whether or not he was to get off the bench at 12:30 or that he had some type of appointment, but, in any event, the upshot of it was that we could not see the judge until 1:30. I gave her the name of the man whom we had agreed upon, and she wrote it down on a piece of paper. When she took it down on the paper somebody said that we would like to discuss the matter and this man's qualifications with the judge.

Q. Did you discuss his qualifications with her at that time?—A. Yes; in a brief way we advised her that this man was an experienced man in the industry and a capable business executive. I do not remember the exact conversation, but I know that we did give her in a general way the importance which we felt the matter had—that is, the receiver—that it was a complicated business enterprise.

Q. When you left the judge's chambers on that occasion, did you have the promise of a hearing before the judge when you returned?

Mr. LINFORTH. We object to that question as calling for the opinion and conclusion of the witness instead of a statement of any fact.

The WITNESS. I can give the balance of the conversation.

Mr. Manager BROWNING. Did I understand the Presiding Officer to rule?

The PRESIDING OFFICER. The objection is overruled.

The WITNESS. I will give you the balance of the conversation which I had, or we had. I do not know whether I did all the talking. The secretary told us that the judge would be back somewhere along 1:30, is my recollection of it, and that he would be able to take the matter up at that time with us, and that we could not see him before this second appointment. Then we left the office.

By Mr. Manager BROWNING:

Q. What time was the second appointment fixed?—A. My recollection is 1:30.

Q. Did you go back at 1:30?—A. We came back at that time, yes; and we were informed by the secretary at that time that Judge Louderback had changed his plans suddenly and that he would not be back until 2:30 in the afternoon, at which time he would see us; and she advised us that she had mentioned the matter to him, and that he had set the time to return at 2:30.

Q. State whether or not you had an appointment to meet him at 2:30 when you left.—A. We had this conversation and we left at that time and came back at 2:30.

Q. In either of these conversations was there anything said by any of you to indicate that you wanted the judge to appoint a receiver or to indicate whether you wanted a hearing?

Mr. LINFORTH. We object to that question as asking for an opinion and conclusion of the witness, and not a statement of any fact.

The PRESIDING OFFICER. Will you reframe the question? The Chair thinks it is somewhat objectionable in its present form.

By Mr. Manager BROWNING:

Q. What, if anything, was said by you or any of those in your group to Miss Berger indicating that you expected the judge to act on this petition?—A. I do not think that we would have given her the name of the receiver or, at least, the party whom we desired to have backed as receiver unless she had requested it. The whole purpose of all of our visits, which were three in number at noon time, was for the purpose of having an audience with the judge in order to inform the judge of the nature and character of this particular problem because the mere legal allegations of the petition itself would not disclose that.

Q. After you left at 1:30 and were told that you could not see the judge until 2:30, when did you come back next?—A. We came back a little prior to 2:30, probably 5 or 10 minutes beforehand.

Q. Did you see the judge?—A. The judge passed us in the hallway as we were going to his office.

Q. How far from his office?—A. It is about the width of this Chamber, I would say.

Q. Were you at that time acquainted with Judge Louderback?—A. I was.

Q. Did you recognize him?—A. I did.

Q. Did he speak to you?—A. No.

Q. State what you found when you got to his chambers on that occasion.—A. When we got in there to the secretary's office we asked Miss Berger whether or not we would be able to see the judge. She stated that the judge had already appointed a receiver in this case. We asked her whom he had appointed and she said a Mr. Gilbert. We asked her who he was, and she did not know anything about it. We asked her for his initials, and my recollection is that she did not know the initials. We asked for his address, and she did not know his address. We asked her if she had his telephone number and she said no, but that she would

get his telephone number from the judge and phone it to us as soon as she had obtained it. She then took down my office telephone number and said as soon as she could get hold of it she would phone me.

Q. Where did you go from there?—A. We went directly to my office and we walked down there, I imagine quite a little distance. We walked rather leisurely, discussing the matter, and I should say it was probably a little after 3 o'clock by the time we got to my office.

Q. What did you do when you got to the office in regard to telephoning, if anything?—A. I got the telephone directory and looked for Mr. Gilbert's name. I recall now that he did give us his initials. I asked for his name, and she gave us the initials. I believe that is true. It may be that she phoned them; I do not know; but in any event, as soon as we had his initials, we looked it up in the telephone book and could not find it listed. I then got the city directory and looked for it, and I could not find it in the city directory.

Shortly after that—it could only have been a few minutes—Mr. Dinkelspiel called me on the phone and stated that they had been appointed attorneys for the receiver in the Fageol Motors case. I asked him whether or not the receiver had qualified, and he said "yes." I said, "You do not mean to say that the bond is up already?" He said, "Yes; the bond is up and approved and of record." I said that we would like very much to have a talk with Mr. Gilbert and with himself that afternoon if possible.

Q. What was your idea of asking whether he had qualified?

Mr. LINFORTH. We object to that as being incompetent, not binding upon the respondent, calling for an opinion or conclusion.

The PRESIDING OFFICER. The question might be asked in a little different form. What is the question? Let it be read.

The Official Reporter read as follows:

Q. What was your idea in asking whether he had qualified?

The PRESIDING OFFICER. The Chair does not think that is objectionable. The objection is overruled.

The WITNESS. Prior to the time Mr. Dinkelspiel had phoned and during our walk down to my office and while we were in my office, we had been discussing the possibility of dismissing the receivership or putting the company into bankruptcy. There was considerable discussion between the lawyers as to whether or not we could make a dismissal after the qualification of the receiver on the theory that the action was brought for the benefit of a great number of people. Consequently we had come to the conclusion that we would dismiss the petition in the event the receiver did not measure up to what we felt was necessary for the handling of this problem.

By Mr. Manager BROWNING:

Q. What further was said between you and Mr. Dinkelspiel?—A. Mr. Dinkelspiel stated he would be unable to see us that afternoon.

Q. Had you requested to see him?—A. Yes. We asked if we could see him and Mr. Gilbert, and he said not that afternoon, but that he could see us in the morning, and we fixed the time, which I think was 9 o'clock in the morning.

Q. When did Mr. Gilbert take possession of the Fageol Motors Co.?—A. He did not go over to the Fageol Motors plant until after the conversation the following morning in my office, so far as I know.

Q. Did they appear the next morning for the conference?—A. Yes.

Q. Who was present?—A. There were present Mr. Dietz, of the C. I. T. Corporation; Mr. Flannigan and Mr. Bill, of the Fageol Motors Co.; Mr. Wainwright, Mr. Licking, Mr. Frame, and myself, and the two Dinkelspiels, and Mr. Gilbert.

Q. What are the names of the two different members of the Dinkelspiel firm?—A. John is the only one I know. I do not know the other one's name.

Q. What took place at this conference?—A. At that time the conversation related in the first place to the business experience of Mr. Gilbert; and while almost every one of the creditors and company representatives at one time or another asked questions, most of the examination or conversation was conducted by Mr. Wainwright.

Q. What did you find out about his experience?—A. As nearly as I can recall it, about all that we could find out was that he had managed an apartment house or two and had dealt in real estate at one time or another, and most of his experience related to a couple of receiverships that he had had, as I recall it. One of them was a phonograph company, and I do not recall the nature of the other one.

Q. Had he had any experience with the automotive industry or any branch of it?—A. None at all, and he admitted that.

Q. Was this conference friendly or otherwise?—A. It was rather spirited from the standpoint of the creditors, I would say; that is to say, the questions which were asked at that conversation were very pointed in character. By the time that they were through with the questions on his business experience the conversation then turned to what fees were expected by the receiver and his attorney. The creditors prior to the time of this meeting had all been in conference and decided upon a course of conduct, and then questions were asked to see whether or not this arrangement which we had would be agreeable and would be followed out.

Q. What course of conduct had you agreed upon?—A. That in the event the receiver and his attorneys were willing to permit the creditors' committee to control the management during receivership and would abide by their decision as to fees, that we would permit the receivership to stay; otherwise we had decided that we would put it in bankruptcy.

Q. Was any agreement made by them with regard to it?—A. Yes. At that meeting both Mr. John Dinkelspiel, speaking for the two Dinkelspiels, said that any arrangement that the creditors would agree to would be agreeable to him; that he felt they were fair and that he was fair, and that he would have no objection to coming to an amicable arrangement in reference to amount; and Mr. Gilbert said that he would likewise be willing. The matter was then to be discussed with the creditors' committee later as to the exact amount of the rate of remuneration.

Q. Did you ascertain at that time what Mr. Gilbert was doing?—A. At that time?

Q. Yes.—A. No. I found that out later. Mr. Dietz, of the C.I.T. Corporation, when we could not find him in the directories, volunteered to have an investigator look into the situation, and that he would give the creditors' committee a full report.

Q. I understand you were the regular counsel for the Fageol Motors Co.—A. Yes; I was their counsel, and also a member of their board of directors.

Q. Did you continue to represent them throughout this receivership?—A. I did.

Q. What arrangement was made with regard to the conduct of the business under the receivership? Was it turned over to Mr. Gilbert?—A. Mr. Gilbert went into possession; but the active managing head was to be selected by the creditors' committee—that is, the man who would attend to the detail of operation—and the only thing that I know of that was left to Mr. Gilbert was the matter of insurance.

Q. What happened in that?—A. All of the existing insurance policies were canceled and new policies taken out in the name of the receiver. There was a contract between the Fageol Motors Co. and the Fageol Motors Securities Co., which is an independent organization and not a wholly owned subsidiary and did not go into receivership, by which they had the right under contract to place all of the insurance upon trucks sold where the paper was discounted with the securities company. All of those contracts were canceled, and there was some settlement of that matter at a later date.

Q. Did it involve any loss to the estate, or any extra expense to it?—A. Well, it resulted in a greater amount of claims among the creditor group.

Q. Were they claims that were allowed?—A. In connection with the Fageol Securities claim; yes. That claim was lumped in with another matter, my recollection of it is.

Q. He could have had this insurance that was in force transferred to him?—A. Why, I presume that he could. It is customary; and, of course, so far as the expense of administration is concerned, it did increase the expense of administration, because the new policies were taken out on the full rate, whereas the old policies would have continued along.

Q. Do you know what the amount of insurance was?—A. No; I do not. I am not familiar with that.

Q. Throughout the conduct of the receivership under the nominal head, at least, of Mr. Gilbert, were you acquainted with the proceedings that went on afterward?—A. Well, only in a general way, and as reported to me by the officers of the company.

Q. Did you come in contact with Mr. Gilbert when he was in that capacity very much?—A. No; I did not. I did come in contact with Mr. John Dinkelspiel on a number of occasions; but I never saw Mr. Gilbert from the time that he was in the office that morning until, I think, last September.

Q. Who was put there to have active charge of the business during the receivership?—A. A man by the name of——

Mr. LINFORTH. Just one moment, Mr. President. We object to that question on the ground that it has affirmatively appeared that the witness never saw Mr. Gilbert from the time of his appointment down to the time he left; and this question, therefore, as to who was put in active charge of the business must be based upon hearsay so far as the witness is concerned.

Mr. Manager BROWNING. Mr. President, the witness has heretofore testified that such a thing was done.

The PRESIDING OFFICER. What is the question?

The Official Reporter read the question, as follows:

Q. Who was put there to have active charge of the business during the receivership?

The PRESIDING OFFICER. If he knows, he may answer the question.

The WITNESS. I must say that I only know that by hearsay.

Mr. Manager BROWNING. Take the witness.

Cross-examination by Mr. LINFORTH:

Q. Mr. Bronson, the office and the plant of the company were located in Oakland?—A. Yes.

Q. And the receivership lasted about how long?—A. About 6 months.

Q. Were you at the plant or the office of the company at any time during that period?—A. I was not.

Q. Then is it the fact that the only information you had as to what Mr. Gilbert did or did not do is information obtained by you from others?—A. Well, the only thing that I have testified to, Mr. Linforth, is the matter of the insurance; and that I have personal knowledge of, because the claim was placed in my hands by the Fageol Securities Co.

Q. Do you know what Mr. Gilbert was doing at the plant and at the office during those 6 months, of your own knowledge?—A. I do not.

Q. Now with reference to this insurance, is it the fact that a good deal of the insurance had been permitted to lapse before Mr. Gilbert became receiver, and had been canceled for nonpayment of premiums?—A. I cannot answer that.

Q. You have no personal knowledge what Mr. Gilbert did in regard to that situation?—A. I do not know that the situation exists, so I could not answer that.

Q. You prepared the order for the appointment of this receiver, did you not?—A. Yes, sir.

Mr. LINFORTH. May I have that, please? I think it was one of the four papers offered.

(The paper was handed to Mr. Linforth.)

By Mr. LINFORTH:

Q. I am handing you a document endorsed "Filed February 17, 1932", in this case of Waukesha Motor Co. against The Fageol Motors Co., and ask you if that is the order that you prepared for the appointment of the receiver.—A. Yes; as nearly as I can recall.

Q. And with the order before you, does it appoint the receiver temporarily, for a period of 30 days only?—A. For a period of 90 days.

Q. Thirty days, does it not—not 90?—A. Well, he has corrected it here to "within 30 days" to cause to be mailed notice of the appointment. I do not find the portion that you have in mind. Perhaps you could expedite it.

Mr. LINFORTH. I will try to.

Mr. HANLEY. Will you go on to something else, Mr. Linforth? I will look it up.

Mr. LINFORTH. I am trying to avoid putting the long order in the record, Mr. President.

By Mr. LINFORTH:

Q. Do you recall that the order which you prepared provided that within 30 days the receiver should, if he saw fit, apply for an order appointing him permanently?—A. My recollection of the 30 days—I would say now that it was more than that. It may be; but in conformity with our equity practice, of course, he was made temporary receiver, with the idea of making it permanent at a later date.

Q. Calling your attention to this language in the order:

Decreed, That the receiver be, and he hereby is, directed, within 30 days from the date of this decree, to cause to be mailed to each and every creditor of the defendants known to said receiver a copy of this order and a notice of a motion to make the receivership herein permanent, such mailing to be in a securely sealed envelope, postage prepaid, and to be addressed to said creditor at his last post-office address known to the said receiver, and such service by mail is hereby decreed to be—

And so forth.

Do you recall that language in the order as you prepared it, Mr. Bronson?—A. Yes; I recall that; but that is not an appointment for 30 days. That is simply that he must make his motion within a period of 30 days.

Q. To make the appointment permanent?—A. That is correct.

Q. Did you receive a copy of a motion to make his appointment permanent?—A. I did.

Q. And was a copy of that notice, to your knowledge, sent to each of the creditors of the company as shown upon the books?—A. I have no knowledge of that.

Q. Did the notice that you received specify the time and place of the hearing of the application to make the appointment of the receiver permanent?—A. Yes; it did.

Q. Did you oppose it?—A. I did not.

Q. Did anyone oppose it, so far as you know?—A. Not to my knowledge.

Mr. LINFORTH. I think that is all, Mr. President.

The PRESIDING OFFICER. Are there any further questions?

Redirect examination by Mr. Manager BROWNING:

Q. Just a moment. Why did you not oppose the motion?

Mr. HANLEY. We object to that, Mr. President, on the ground that there is nothing in the evidence that calls for his opinion as to why he did not do it. It would not be binding on what was in his head that he did not put out.

The PRESIDING OFFICER. The objection is overruled.

The WITNESS. The reason that I did not oppose it was that my clients were satisfied with the arrangement that had been effected between the creditors' committee and Mr. Gilbert for the administration of the estate.

Q. And that agreement was what?—A. That agreement was, as agreed to in my office that next morning when Mr. Gilbert and the two Dinkelspiels came in, that the creditors' committee was to have the control of the policies to be followed and to appoint the particular man who was to administrate the affairs, and that the fees of the receiver and the attorney would be agreed to between them and the creditors' committee.

Q. Mr. Bronson, do you know anything about the later development with regard to the accountants that were employed by Mr. Gilbert in this matter?—A. I had a conversation with Mr. John Dinkelspiel in my office sometime along the first of March, I would say—it may have been the latter part of February—in which he came in with a——

Q. What year?—A. Of 1932, shortly after the order appointing a receiver was made; and he presented a stipula-

tion for me to sign authorizing an audit of the books of the company, a complete audit. In this conversation I objected very strenuously to a complete audit on the ground that it would be very expensive, and deplete the assets of the estate, and would not help anybody, and that an inventory could be taken under proper supervision, and a sort of a revision of the books, a verification of the books, as to accounts payable and receivable, and I thought that that was sufficient for the purposes, my position being at that conversation that all the receiver had to do was to make his inventory as of the date of his appointment, and that it was not necessary to do anything further. Mr. Dinkelspiel stated to me that the creditors' committee wanted it. I said I would take it up with the creditors' committee and see whether or not I could modify their views, and he agreed with me at that time that the fees would not exceed $1,500, and if they were going to go any more than that, he would advise me, so that I could make proper application to the court. I think that is about all that was said on that.

Q. Was an audit made?—A. Yes.

Q. How much did it cost?—A. I only know that by hearsay, Mr. BROWNING.

Q. You have not seen the record?—A. My recollection is that the bill——

Mr. LINFORTH. The witness has answered already that he only knows by hearsay, Mr. President.

The PRESIDING OFFICER. Unless you know of your own knowledge, do not answer.

The WITNESS. I do not know of my own knowledge.

Q. (By Mr. Manager BROWNING.) Were you present when there was a hearing on it of any kind, or an allowance on it?—A. I was in bankruptcy court one day on which the matter of the auditor's bill came up, but it was put over until a later date, and there was nothing disclosed there that gave me particular knowledge of the amount. That I only know by hearsay.

Q. You did not learn the amount of the bill rendered at that time by the auditor?—A. No; it has been given to me by somebody. The bill was not presented to me, so I only know by hearsay.

Mr. Manager BROWNING. That is all.

Recross examination by Mr. LINFORTH:

Q. Did you ascertain that Mr. Dinkelspiel had made an arrangement with Lybrand, Ross & Montgomery for the doing of the audit for $4,000?—A. No. As a matter of fact, Mr. Dinkelspiel told me that any auditors that I might suggest would be agreeable to him, and I said, "I am not interested in that. I am interested only in saving the expense."

Q. Mr. Bronson, I do not think you are answering my question, if you will permit the interruption. Did you know, or have you ascertained, that Mr. Dinkelspiel did make an arrangement with Lybrand, Ross & Montgomery for $4,000 as the outside figure for the audit?—A. I know of no such arrangement, and at this conversation he had with me he stated that he had made no arrangements with anybody.

Q. And do you not know that the bill of that company has not been paid, but is in dispute?—A. That I do not know. I know that it was disputed.

Mr. LINFORTH. That is all.

The PRESIDING OFFICER. Call the next witness.

EXAMINATION OF WILLIAM C. CROOK

Mr. Manager BROWNING. Call Mr. W. C. Crook.

William C. Crook was sworn as a witness.

The VICE PRESIDENT. The Chair lays before the Senate the following communication, which the clerk will read.

The legislative clerk read as follows:

SENATE OF THE UNITED STATES,
OFFICE OF THE SERGEANT AT ARMS,
Washington, D.C., May 17, 1933.

Hon. JOHN N. GARNER,
Vice President and President of the Senate,
Washington, D.C.

MY DEAR MR. VICE PRESIDENT: I was commanded to serve and return a subpena issued in the impeachment trial of Harold Louderback on one W. S. Leake, of San Francisco, Calif. Said subpena was personally served by me on the said W. S. Leake on May 2, 1933, at San Francisco, and a return was duly made by me.

W. S. Leake was commanded to appear and testify on the 15th day of May 1933, at 1 p.m. at the Senate Chamber in the city of Washington, and he has not appeared and refuses to appear and testify for the reason as stated by him to me personally on this day, that he is physically unable to do so.

This information is given to you so that the Senate of the United States may be officially informed in the matter.

Respectfully,

CHESLEY W. JURNEY,
Sergeant at Arms.

Mr. ASHURST. Mr. President, I present an order, and I request that the same be read for the consideration of the Senate. I ask the attention of the senior Senator from Oregon [Mr. MCNARY].

The VICE PRESIDENT. The clerk will report the order for the information of the Senate.

The legislative clerk read as follows:

Whereas the Senate of the United States pursuant to House Resolution 403, Seventy-second Congress, second session, and orders of the Senate of the United States adopted in relation thereto, has authorized that witnesses be summoned as required by the rules of procedure and practice of the Senate; and

Whereas it appears from the letter of Chesley W. Jurney, Sergent at Arms of the United States Senate, to Hon. John N. Garner, Vice President and President of the Senate, dated May 15, 1933, that one W. S. Leake, of San Francisco, Calif., was duly served with a subpena on May 2, 1933, to appear on Monday, May 15, 1933, at 1 p.m., before the Senate of the United States at Washington, D.C., and then and there to testify his knowledge in the cause which is before the Senate in which the House of Representatives have impeached Harold Louderback, district judge of the United States for the Northern District of California; and

Whereas it appears from a letter of Chesley W. Jurney, Sergeant at Arms of the United States Senate to Hon. John N. Garner, Vice President and President of the Senate, dated May 16, 1933, that said W. S. Leake has not appeared in response to said subpena duly issued and served, and the said W. S. Leake has failed, in disobedience of such subpena, so to appear and answer; and

Whereas the appearance and testimony of said W. S. Leake is material and necessary in order that the Senate of the United States may properly execute the functions imposed upon it by the Constitution of the United States, and other action as the Senate may deem necessary and proper: Therefore be it

Ordered, That the Vice President and President of the Senate issue his warrant commanding the Sergeant at Arms or his deputy, to take into custody the body of the said W. S. Leake, wherever found, to bring the said W. S. Leake before the bar of the Senate, then and there to answer such questions pertinent to the matter under inquiry; and to keep the said W. S. Leake to await the further order of the Senate.

The VICE PRESIDENT. Without objection, the order will be entered. The Chair hears no objection. Proceed with the witness.

By Mr. Manager PERKINS:

Q. State your full name, your business, and place of residence.—A. William C. Crook; I am a public accountant, with office in San Francisco.

(Mr. HASTINGS took the chair.)

By Mr. Manager PERKINS:

Q. Did you have any connection with the Fageol Motors?—A. I was the auditor for the Fageol Motors Co. from 1917 until the receiver was appointed in 1932.

Q. Do you know the respondent, Harold Louderback?—A. Yes; I have known Judge Louderback for a good many years.

Q. Previous to the appointment of a receiver, did you ascertain that a receiver was about to be appointed?—A. Yes; I understood that a receiver was asked for, and I was given the assurance that my name would be proposed.

Q. Did you have a conversation with Judge Louderback previous to the appointment of a receiver with reference to the appointment, and if so, state it.—A. I called at Judge Louderback's office——

Mr. Manager PERKINS. Mr. President, may I ask the President to direct the witness to speak a little louder?

The PRESIDING OFFICER. The witness will please speak loud enough so as to be heard in the Chamber by all the Senators.

The WITNESS. I called at Judge Louderback's chambers the day before a receiver was appointed.

By Mr. Manager PERKINS:

Q. What conversation did you have with the judge?—A. I told the judge——

Mr. ASHURST. Mr. President, I regret to make this observation, but we are unable to hear at this point in the Chamber.

The PRESIDING OFFICER. Let us have order in the Chamber, and the witness is requested to speak loud enough so that all Members of the Senate may be able to hear.

The WITNESS. I called at the chamber of the judge on the day before a receiver was appointed, and knowing the judge very well, I asked him if it were possible for him to appoint me as receiver, advising him that I was fully conversant with all of the affairs of the company from the time it started business; that the company was at present—at that time—in difficulty, through the recent depression, and the fact that a subsidiary company of the American Car & Foundry Co. failed to pay a $75,000 payment upon a contract which the company had bonded, and that one of the bondholders, holding about $40,000 in bonds, had attached the Fageol Motors Co. because of the nonpayment; that the president of the Fageol Motors Co., Mr. L. H. Bill, thought it advisable to have a receiver appointed, so that the party bringing the action against the company would not have a first claim on the affairs of the company, and for that matter that a receiver was to be asked.

The judge told me at that time, when I first spoke, that he would make no promises, but he questioned me as to the company, how much the indebtedness of the company was and what the assets were, and I told him. He also asked me if there was anything unusual about the company. I told him no; that as far as I knew—and I thought that I knew very well—everything was as straight as a string.

By Mr. Manager PERKINS:

Q. What did you state the assets were?—A. That the company had a capitalization of $3,000,000, one million in preferred stock and two million in common stock; that the current assets would run over $1,000,000, and that the liabilities would be in the neighborhood of four or five hundred thousand.

Q. Were you a stockholder in the company?—A. I was.

Q. When did you next receive any information, if at any time, from Judge Louderback, about the appointment of a receiver?—A. The next day I called up Mr. Bronson, the attorney for the company, and asked him if a receiver had been appointed, and he told me that there was, giving me the name of Mr.——

Q. Gilbert?—A. Gilbert.

Q. Did you see the judge thereafter?—A. I called on the judge the next morning.

Q. What conversation did you have with him with reference to the matter?—A. I waited out in the hall until the judge came, and I met him before he entered his chambers, and I said, "Judge, what happened?" He said, "The attorneys double crossed you, and I double crossed them."

Q. What matter were you speaking about when he said that?—A. That was the receivership of the Fageol Motors.

Q. Had you offered the receiver to make an accounting or audit of the company?—A. I do not understand the question.

Q. Did you afterwards make an offer to the receiver appointed by Judge Louderback to make an audit of the affairs of the company?—A. I would say "yes" but I should like to explain that when the receiver took over the affairs of the Fageol Motor Co. I was then completing the annual audit, and he told me to go ahead and submit him a statement, which I did. During that period, which was only a few days, he asked me what it would cost to bring the audit up to date and supply him with a certified statement as to the affairs of the company, on the 17th day of February, up to that date. I gave him a figure of $800 speaking of the Fageol Motors Co., but not of the subsidiary companies.

Q. Were you engaged to make such an audit?—A. No, sir.

Q. Do you know whether an audit was made by some other concern?—A. I drew that from hearsay. I have heard that one was.

Q. Did you have a conversation with the judge previous to the appointment of the receiver as to the reason for your desiring to be receiver?—A. Yes; when I was told that my services were not longer required as they wished to cut down expenses, Mr. Gilbert told me that he went over to see the judge and asked him if he would ask the receiver to appoint me the auditor, as I could do that at much less cost than anybody else, for the reason that I was so familiar with all the affairs of the company, and he told me that he could not interfere with the receiver or that he could not interfere with the receiver's appointment of an auditor, as he would want somebody who was independent of the affairs of the company.

Mr. Manager PERKINS. Take the witness.

Cross-examination by Mr. HANLEY:

Q. Mr. Crook, who told you that you were to be proposed as the receiver?—A. Mr. L. H. Bill.

Q. Anybody else?—A. And a Mr. Flannigan.

Q. Anyone else?—A. They were the only two.

Q. Did you have any talk with Roy Bronson or with Mr. Wainwright about it?—A. No, sir.

Q. Did Mr. Bill and Mr. Flannigan tell you that you had been selected; that you were the one to be proposed to the judge in the event that a receiver was to be appointed?—A. Yes, sir.

Q. You had that absolute assurance, did you?—A. Well, Mr. Bill told me I was the first choice.

Q. Did they tell you they also had a second choice?—A. No, sir.

Q. Well, was there not a man who had business in what is known as the San Leandro country, who was suggested at that time as being the second choice?—A. Mr. Bill told me that afterward—it was Mr. Chichester.

Q. Did you know that at the time you visited the judge?—A. Not at the time when I went to the judge first.

Q. When you went to the judge the receivership had not yet been applied for; it was about to be applied for, was it?—A. Yes.

Q. Did the judge tell you at that time that he did not know whether the matter would come before him or not?—A. Certainly.

Q. He told you that there were three judges of that court and that he might not be the judge who was drawn in this——A. That is quite correct.

Q. I was going to say lottery, but in this drawing of the numbers?—A. That is quite correct.

Q. And you told the judge that the parties to the action, or the ones you thought would be the parties to the action, had firmly agreed upon you as a first choice for receiver, did you not?—A. I told him that I thought that they had.

Q. Mr. Flannigan was occupying what position then?—A. Mr. Flannigan was the president of the Fageol Securities Co., and he was also in the Fageol Motors Sales Co.; he was the internal auditor for the Fageol Motors Co.

Q. You knew at that time that Roy Bronson was the attorney for Bill & Co., did you not?—A. Yes, sir.

Q. You had received this information from Bill and from Flannigan the day before you went to the judge's chamber, had you not?—A. Yes, sir.

Q. So that as late as the day before the appointment, Mr. Flannigan and Bill had told you you were no. 1 choice?—A. Yes, sir.

Q. And then they told you on the next day that you were the no. 2 choice?—A. No; I learned that after the receiver had been appointed.

Q. The next day?—A. Yes, sir.

Q. When you went to see the judge the next day after the receiver had been appointed you met him in the corridor, did you not?—A. Yes, sir.

Q. And you said to the judge, "I see you have appointed a receiver?"—A. No, sir.

Q. What did you say?—A. I said, "Judge, what happened?"

Q. Did you open up the conversation?—A. With those words.

Q. Did you say that you had been "double crossed"?—A. No sir.

Q. What did you say?—A. I said, "Judge, what happened?" That is all.

Q. Is that all?—A. Yes.

Q. And was the next word the judge's?—A. Yes, sir.

Q. You are sure that you did not say that you had been "double crossed"?—A. No, sir; I did not.

Q. You felt that the understanding that you had with Bill and with Flannigan did not go through? Is not that true?—A. I was amazed that I had not been appointed.

Q. And you were amazed because of the promises of the parties representing the Fageol Motors Co.?—A. I was amazed, because the judge had definitely promised to appoint me.

Q. If they had suggested you—is that right?—A. No; he did not. The fact of the matter is that I was cut off before I narrated my full conversation with the judge.

Q. Who cut you off—the counsel?—A. Yes.

Q. You say now that the judge told you that you would be appointed; is that it?—A. When I first entered the chambers the judge told me that he would not—when I asked him if he would appoint me the receiver he said that he would not definitely tell me that. Then, later on—I was with him for probably two hours or two hours and a half—discussing this matter with him, and he told me then that if he appointed me the receiver that he would insist upon appointing the attorneys, and I told him that was all right if I got good sound advice.

Q. In other words, if he appointed you he would reserve the right to suggest to you the appointment of an attorney?—A. Yes, sir.

Q. And that was the beginning and end, except that you went into the details of the particular transaction with him?—A. Yes, and he went a little further than that; he told me, he says, "I am going to appoint you for two reasons; first, that I like you; the next is that I have got confidence in you", and he told me what I would have to do when I was appointed, and he went on and spoke of other cases that he had had and why they were unsatisfactory because of certain things. One thing was, he said, "If I allow you a commission of ten to fifteen thousand dollars, I do not want you to split that", he says, "because I have no use for anybody that will split a commission."

Q. In other words, he said if he appointed you receiver he wanted no one to interfere with the amount that you would be awarded in the event you were awarded a fee?—A. Yes, sir. He told me further that if I had any difficulty with the attorney he wanted me to come straight to him and he was going to give the same instructions to the attorney. I told him that was quite all right.

Q. The point is that you were not appointed; is not that true?—A. That is very true.

Q. And you were quite disappointed over it, were you?—A. I was.

Q. And you were quite disappointed over the fact that you had been taken away from completing the audit, were you not?—A. No; I completed my audit up to the first of the year.

Q. But you said that Mr. Gilbert did not allow you to continue in the place, did you not?—A. Yes, sir.

Q. And it was because of that fact that you went to the judge again complaining of the matter; is that right?—A. That is correct.

Q. And the judge told you at that time that as the receiver was appointed he did not want to interfere with the internal work of the receiver, did he not?—A. Yes; something to that effect.

Q. Did you not testify at the opening, in answer to a question of one of the managers, and say actually this:

The judge said that he would make no promises whom he would appoint?

A. I said, and I repeated it afterwards, that the judge told me that he would not make any promises right then. Since that he made two other promises very definitely, but they cut me off before I finished the full interview.

Q. So that the reason you did not tell it in the start was that the managers cut you off?—A. Yes, sir.

Q. Were your relations pleasant with Flannigan and Bill and Roy Bronson?—A. I had nothing to do with Mr. Bronson; I did not interview him at all.

Q. When is the first time, Mr. Crook, that you told anybody of this?—A. What do you mean, "told anybody"?

Q. What you are now telling us after it occurred.—A. After it occurred I went to Mr. Bill the next morning and asked him why my name had not been given in to the judge, and he said, "I thought it had." "Well", I said, "no; and furthermore", I said, "the judge might have thought that I was trying to slip something fast over on him, and I want a letter from you stating that I did not make a misstatement to the judge." I brought that letter and I showed it to the judge and he read it carefully. It was in that letter that there was the first intimation I had that there was a second choice. That letter I have in the hotel; unfortunately I did not bring it with me, not knowing I was going on this afternoon.

Q. Mr. Crook, this matter was under investigation last September in San Francisco when Mr. LaGuardia and Mr. Browning and also Mr. Sumners were there. Were you present at that meeting?—A. No, sir; I purposely avoided it. I did not want to appear in this case at all.

Q. You did not want to do so?—A. No, sir.

Q. Outside of last September, when did you first tell anybody about it?—A. I beg pardon.

Q. When did you next mention it?—A. When the gentlemen called on me, around the first part of the month.

Q. In other words, when they came to San Francisco in the latter part of April or the first of this month, they called upon you, did they?—A. Yes, sir.

Q. And then you related to them for the first time there in September what took place, did you?—A. You mean to whom?

Q. To anyone?—A. I cannot say that.

Q. Well, can you tell me another soul that you mentioned it to from September 1932, outside of Bill, until you mentioned it to Mr. Perkins and to Mr. Browning—can you tell me one person?—A. Yes; I told it to Mr. Alex Bill.

Q. I say, outside of Mr. Bill, tell me one that you mentioned it to?—A. Yes; I told it to Mr. Flannigan.

Q. These are the two that promised you. Was there anyone else?—A. I do not recall it.

Mr. HANLEY. I think that is all.

Redirect examination by Mr. Manager PERKINS:

Q. Mr. Crook, how many conversations did you have with Judge Louderback with reference to the appointment of a receiver?—A. One, the day before he appointed the receiver.

Q. In what conversation did he agree to appoint you receiver?—A. In the conversation when I first talked to him he said that he would not make a promise. Later he did definitely make a promise.

Q. Did you at any time say to Judge Louderback, "We are very anxious not to allow anybody to get in on that company except someone of our own organization"?—A. No, sir.

Q. You had a later conversation with Judge Louderback—is that right—with reference to the appointment of a receiver after the receiver was appointed?—A. The very next morning.

Q. What did he say to you?

Mr. HANLEY. That question has been asked and already been answered and the witness has been fully interrogated regarding it.

The PRESIDING OFFICER. The Chair thinks the witness may answer the question.

The WITNESS. Will you read that question?

The PRESIDING OFFICER. The Official Reporter will read the question.

The Official Reporter read as follows:

Q. You had a later conversation with Judge Louderback—is that right—with reference to the appointment of a receiver after the receiver was appointed?

The WITNESS. The very next morning.

Q. What did he say to you?

The WITNESS. "The attorneys double-crossed you and I double-crossed them."

Mr. Manager PERKINS. That is all.

Mr. HANLEY. That is all.

The PRESIDING OFFICER. The witness is excused.

EXAMINATION OF FRED C. PETERSON

The PRESIDING OFFICER. Call the next witness.

Mr. Manager BROWNING. We will call Mr. Peterson.

Fred C. Peterson, having been duly sworn, was examined and testified as follows:

By Mr. Manager BROWNING:

Q. State your name, place of residence, and occupation.—A. Fred C. Peterson, Oakland, Calif., attorney at law.

Q. Have you been in any way connected with the proceedings in the Fageol Motor Co. trouble?—A. I have.

Q. In what way?—A. I was attorney for the petitioning creditors who filed the involuntary petition of bankruptcy, and I am also one of the attorneys for the receiver and trustee in bankruptcy who are now administering the assets of the estate.

Q. Do you know anything about the claim filed by the auditors in that case for the work they had done for the receiver in the equity receivership?—A. I do, sir. I partially tried the hearing before the bankruptcy court on those fees.

Q. Do you know what the original agreement was as to the charge for fees?—A. I do not know.

Mr. LINFORTH. Just a moment. If the agreement is in writing, it ought to be produced. If it is not in writing, we have no objection to secondary testimony.

The PRESIDING OFFICER. Was it in writing?

The WITNESS. I think it is partially in writing and partially by parol. The entire agreement was not in writing. I believe I have a letter in my pocket—no, I have a letter in my brief case outside which covers a part of the agreement. It was not all oral and not all in writing.

By Mr. Manager BROWNING:

Please state what the agreement was.—A. The agreement was that the auditors should be employed on a per-diem basis, and there was a discussion as to the maximum fee not to exceed $5,000.

Q. With what firm was that contract made?—A. Ross Bros., Lybrand & Montgomery.

Q. Was that agreement for the entire auditing work that was done for the concern?—A. I personally did not sit in on that agreement. I came in at the time of the trial, and I believe that the actual details of that agreement can best be obtained from the gentlemen who were present in Mr. Dinkelspiel's office at that time.

Q. What was the size of the bill submitted by this auditing concern?—A. If you will permit me to refer to a note which I took from the bill, I can give the exact figure. The auditing bill for California and Washington was $15,083.10. The auditing bill for the ancillary receivership in Oregon was $2,207.03, making a total of $17,290.13.

Q. What amount was allowed?—A. We contested on behalf of the trustee in bankruptcy the entire claim. We tried the matter for about a day before the bankruptcy court and a compromise was reached under which they were paid $2,207.03 in the Oregon proceeding and $9,000 in the California proceeding, making a total of $11,207.03 allowed, or a difference of $6,083.10. That was reached by compromise in the bankruptcy court after a day's trial.

Q. Who authorized this work to be done for which this bill was submitted and for which the allowance was made?—A. There is an order in the file for the employment of the auditors, signed by Judge Louderback, in the equity matter. There is an order on file.

Q. Was this service rendered in the equity matter, or was part of it in the bankruptcy case?—A. Entirely in the equity matter; none of it in the bankruptcy matter.

Mr. Manager BROWNING. I believe you may take the witness.

Cross-examination by Mr. LINFORTH:

Q. Mr. Peterson, did you succeed Messrs. Dinkelspiel & Dinkelspiel when the company went into bankruptcy?—A. No; I did not succeed them. The bankruptcy proceeding superseded the equity proceeding, and my client, Mr. E. C. Street, became first the bankruptcy receiver and then the bankruptcy trustee.

Q. The hearing to which you have referred was before the referee in bankruptcy in Oakland?—A. It was.

Q. That was Judge Wymore?—A. No; Wyman—W-y-m-a-n—W. J. Wyman.

Q. At the time the order was made to which you have referred in the equity proceeding, do you know whether or not it specified what particular work was to be done?—A. I would say that the order simply specified that auditors should be employed to make an accounting, and that the fees were to be fixed by the court.

Q. In other words, it was subject to adjustment by the court?—A. It was subject to adjustment by the court.

Q. Did you understand from Mr. Dinkelspiel that the firm of Lybrand, Ross & Montgomery had been employed under an agreed arrangement?—A. In investigating the facts—I have the letter of confirmation in my possession now, in which there were daily rates specified according to the type of auditor employed.

Q. Did that memorandum fix an outside limit at which the fee should be?—A. The written memorandum did not.

Q. Were you informed and advised that there was such an arrangement and that an outside limit was fixed?—A. I was, by several people.

Q. Did you have the cooperation of Messrs. Dinkelspiel & Dinkelspiel and Mr. Gilbert in resisting that bill?—A. Yes; I would say that there was no lack of cooperation in the resistance.

Q. Both on the part of Mr. Gilbert, the former receiver and Messrs. Dinkelspiel & Dinkelspiel, his attorneys?—A. Mr. Gilbert was present in court and was not called as a witness. My contacts were practically all with Mr. John Dinkelspiel.

Q. The matter was adjusted by saving the amount of six thousand and odd dollars?—A. It was.

Q. That matter you knew of prior to the 31st day of August 1932, did you not?—A. I did not know much about the auditing bill until I got ready to try the case. My petition was filed on the 6th of June. I do not think the adjudication was taken until some time in July, and the actual trial of this case involving these facts did not take place until, I believe—my recollection is—it was around the first of this current year that it was tried.

Q. Mr. Peterson, you knew on and prior to the 31st of August 1932, did you not, that this controversy had arisen over the amount of the bill of Lybrand, Ross & Montgomery?—A. Oh, I knew there was a controversy; yes, sir.

Q. You were in the court, were you not, on that day, August 31, 1932, in the court of Judge Wyman, at the time the application for compensation of Mr. Gilbert, as receiver in that matter, and Dinkelspiel & Dinkelspiel came on for hearing?—A. No; you are mistaken. I was not in court at that time. I was in New York City taking care of some Fageol matters. I did not appear at the time the compensation hearing took place.

Q. I did not get your initials.—A. Fred C. Peterson. You may have been confused with a Mr. Patterson who was also attorney for the trustee.

Q. I have before me the record certified to by the official reporter and Judge Wyman, which recites that Fred C. Peterson appeared as attorney for the trustee. Is that an error?—A. I think that is an error. Let me get this straight. May I see which hearing that is?

Q. Yes; I would be glad to show it to you. If there is an error of name, I would like to know the fact. [Handing the witness a paper.]—A. I can tell you the exact date I was in the East. I think that is an error—yes; that is an error. I did not appear. I did not return from New York City until September 3. That is an error. I was not in the court room.

Q. The Fred C. Peterson referred to in this record is not yourself?—A. There is no other Fred C. Peterson that I know of connected with the case; but the record itself is incorrect, because I left New York City on September 3.

Q. Did you at any time prior to this hearing at which the fees of Mr. Gilbert and Mr. Dinkelspiel were fixed by the referee in bankruptcy—did you, after you became the attor-

ney for the referee, take up the question of those fees?—A. I did not personally. That you may get the picture, there was a bond issue in default in this matter, and I was in New York on that bond-issue question during the entire time that Mr. Dinkelspiel's account and that matter was taken up. That was adjusted before I returned to the West.

Q. I may be able to sum the matter up with one question, Mr. Peterson. Were you in court before Burton J. Wyman as referee in bankruptcy at the time that Mr. Wainright and the committee of creditors were there, when the application for compensation of the attorneys for the receiver was on hearing?—A. I was not. I was in New York City.

Mr. LINFORTH. That is all.

Mr. Manager BROWNING. That is all.

The PRESIDING OFFICER. The witness is excused.

OFFERS OF DOCUMENTS

Mr. Manager PERKINS. Mr. President, we offer in evidence the original order appointing G. H. Gilbert receiver, dated January 25, 1929, signed by the respondent, Harold Louderback, in the matter of Stempel & Cooley.

The PRESIDING OFFICER. Is there any objection?

Mr. HANLEY. Upon the same ground and for the limited purpose that we urged this morning, upon which the Senate took the vote, if it is for the one purpose, all right. If the purpose is to go into detail, we object to it. If it is limited to the purpose that the President then designated, all right.

The PRESIDING OFFICER. What is the purpose of this offer?

Mr. Manager PERKINS. The purpose is to show the course of conduct of the judge with respect to the appointment of receivers, particularly Gilbert, and as evidence on the charge of a conspiracy between them.

The PRESIDING OFFICER. Do the managers propose to go into a detailed hearing upon this particular appointment?

Mr. Manager PERKINS. No; I think not.

Mr. HANLEY. I withdraw the objection. I thought it was the State court. This is the Federal court?

Mr. Manager PERKINS. This is the Federal court.

The PRESIDING OFFICER. Let it be admitted without objection.

(See U.S.S. Exhibit 24.)

Mr. Manager PERKINS. Mr. President, we offer in evidence an original order signed by the respondent, Harold Louderback, in the matter of Stempel & Cooley, dated January 28, 1929, authorizing the receiver, G. H. Gilbert, to appoint the firm of Keyes & Erskine as attorneys.

The PRESIDING OFFICER. Is there any objection?

Mr. HANLEY. No objection.

The PRESIDING OFFICER. It is admitted.

(See U.S.S. Exhibit 25.)

Mr. Manager PERKINS. We offer an order dated September 1, 1928, signed by the respondent, Harold Louderback, in the matter of H. G. Lane & Co., appointing Samuel Shortridge, Jr., receiver.

The PRESIDING OFFICER. Is there any objection?

Mr. HANLEY. It is not one of the articles charged. There is nothing charged, either by way of reference in article V or otherwise, with relation to it. We object, and I will state the reason.

We are prepared to meet that which they alleged in the articles, and we are also prepared to meet that which they alleged in their amended article V. If there is any evidence to be introduced with reference to the Lane case, it is not stated in the article. It was stated by Mr. Manager SUMNERS upon the hearing here in this Chamber on the 18th day of April that the only matters intended to be referred to were those in the amended article and the stipulation; and the understanding was explicit in the Senate upon that day that he referred only to those matters set forth in the four articles of impeachment and the three in article V. So that we say it is not competent, not relevant, not material, and not within the issues as framed.

The PRESIDING OFFICER. What do the managers on the part of the House say in reply to that?

Mr. Manager PERKINS. Mr. President, it is not the intention of the managers on the part of the House to go into the detail of the Lane case; but we deem it relevant and important to show the continued appointment of various receivers and their attorneys by Judge Louderback under article V of the impeachment.

Mr. HANLEY. There is no claim of continued appointment of Shortridge. He was appointed only in two matters during the entire 5 years, and they know that; and both of them were upon the request of both parties. They cannot do it for that reason. There is some ulterior motive that the managers have in putting in something that is not in the record, if that is the issue we have to face, because they cannot claim in fairness that there was any great appointment of Samuel M. Shortridge, Jr.

The PRESIDING OFFICER. Will the managers on the part of the House call the Chair's attention to the particular article that makes this particular paper admissible?

Mr. Manager PERKINS. Mr. President, at the present moment I do not think I can refer to a specific allegation in the articles of impeachment referring to the Lane matter; but the broad general allegations of article V certainly would, in my judgment, permit us to introduce in evidence any act of the judge bearing upon his conduct as a judge, and the result it has upon the administration of justice in his district, and the general reputation he has acquired in the conduct of his judgeship.

The PRESIDING OFFICER. But you would not contend, would you, that the order appointing a receiver in every case would be admissible here?

Mr. Manager PERKINS. No; I would not.

The PRESIDING OFFICER. Will you point out how this particular paper differs from the general class that the Chair has mentioned?

Mr. Manager PERKINS. In article V, appearing on page 7 of Senate Document No. 38, there is a reference to the appointment by the respondent of Samuel Shortridge, Jr., as receiver.

Mr. HANLEY. Mr. President, that is in the Lumbermen's Reciprocal case. I have before me, if the President of the Senate desires it, the CONGRESSIONAL RECORD of the Senate at page 1883, and the statement that I then made upon the 18th day of April. I will read it to the President if he desires. I will state that which Mr. Manager SUMNERS said was the intent of it, if you wish to hear it.

Mr. Manager PERKINS. In order that we may proceed we will for the moment withdraw the offer.

The PRESIDING OFFICER. The offer is withdrawn. You may proceed.

Mr. Manager PERKINS. Mr. President, we offer in evidence an order appointing ancillary receivers, signed by Judge Louderback December 20, 1929, in the matter of Sonora Phonograph Co., Inc., in which it is ordered that G. H. Gilbert be appointed ancillary receiver, and furnish a bond in the sum of $75,000.

The PRESIDING OFFICER. Is there any objection?

Mr. HANLEY. No. That is admitted in the pleadings.

(See U.S.S. Exhibit 26.)

Mr. Manager PERKINS. We offer an order made by the respondent in the same matter, dated December 20, 1929, authorizing the receiver, Guy H. Gilbert, to employ Messrs. Dinkelspiel & Dinkelspiel as attorneys.

The PRESIDING OFFICER. It is admitted.

(See U.S.S. Exhibit 27.)

Mr. Manager PERKINS. We offer an order made in the matter of Sonora Phonograph Co., Inc., by the respondent, Harold Louderback, dated February 24, 1930, approving the first report and account of G. H. Gilbert, ancillary receiver.

The PRESIDING OFFICER. It is admitted.

(See U.S.S. Exhibit 28.)

Mr. Manager PERKINS. We offer an order signed by the respondent, dated the 17th of May, 1930, in the matter of Sonora Phonograph Co., allowing compensation on account to attorneys for ancillary receiver, which provides that the court allows the firm of attorneys the sum of $15,000 on account of services.

The PRESIDING OFFICER. It is admitted.

(See U.S.S. Exhibit 29.)

Mr. Manager PERKINS. We offer an order made by the respondent, dated May 12, 1930, in the matter of the Sonora Phonograph Co., approving the second report and account of the ancillary receiver, and ordering that Guy H. Gilbert, receiver, receive the sum of $2,502.83 commissions on account of services.

The PRESIDING OFFICER. It is admitted.

(See U.S.S. Exhibit 30.)

Mr. Manager PERKINS. We offer an order made by the respondent on the 30th day of July 1930 in the matter of Sonora Phonograph Co., Inc., allowing the third and final account of the ancillary receiver, and allowing final compensation to attorneys for ancillary receiver, which provides that the sum of $5,000 is a reasonable, proper, and final allowance for Messrs. Dinkelspiel & Dinkelspiel, attorneys.

The PRESIDING OFFICER. It is admitted.

(See U.S.S. Exhibit 31.)

Mr. Manager PERKINS. We offer an order dated August 18, 1931, made by the respondent in the matter of Character Finance Co. of Santa Monica against Prudential Holding Co., authorizing the receiver, Guy H. Gilbert, to employ Messrs. Dinkelspiel & Dinkelspiel as attorneys.

The PRESIDING OFFICER. It is admitted.

(See U.S.S. Exhibit 32.)

Mr. Manager PERKINS. We offer, but not to be printed, the bill of complaint in the case of Character Finance Co. of Santa Monica, plaintiff, against Prudential Holding Co. of Los Angeles, received and filed in the United States District Court for the Northern District of California August 15, 1931.

The PRESIDING OFFICER. What does the manager mean when he says " not to be printed "?

Mr. Manager PERKINS. We do not ask to have the entire bill of complaint printed, but we have no objection to having it printed. I thought we might save some expense.

The PRESIDING OFFICER. That is what the Chair had in mind this morning with respect to those matters. It seems to the Chair that if documents are admitted in evidence, they must become a part of the record and be printed as a part of the record.

Mr. Manager PERKINS. We recognize that that is true, Mr. President.

(See U.S.S. Exhibit 33.)

Mr. Manager PERKINS. We offer an order signed by the respondent, Harold Louderback, dated August 15, 1931, in the matter of Character Finance Co. against Prudential Holding Co., appointing G. H. Gilbert receiver, and requiring of the receiver a bond in the sum of $50,000.

The PRESIDING OFFICER. It is admitted without objection.

(See U.S.S. Exhibit 34.)

Mr. Manager PERKINS. We offer the petition in involuntary bankruptcy in the matter of Prudential Holding Co. of Los Angeles, filed in the same court September 5, 1931.

The PRESIDING OFFICER. What is that?

Mr. Manager PERKINS. This is the petition that throws the concern into bankruptcy.

The PRESIDING OFFICER. How does that become material?

Mr. Manager BROWNING. Mr. President, that is material, because in this case we propose to show that there was pending before Judge Louderback's court the equity receivership. Then there was a petition filed in bankruptcy, and there was a motion to dismiss the equity receivership. The petition filed in bankruptcy was assigned to Judge St. Sure, who was absent. Judge Louderback, in Judge St. Sure's absence, made the appointment of Gilbert as receiver in bankruptcy, and Dinkelspiel & Dinkelspiel as his attorneys in bankruptcy, and the sole ground of bankruptcy alleged was the existence of the equity receivership, and then 2 days after that dismissed the equity receivership for lack of jurisdiction.

Mr. HANLEY. Mr. President, these matters are all admitted in the pleadings. It seems to me that we have fully answered and admitted these matters, and explained them, so that the mere formal putting of them in the record seems to us not to be proper.

Mr. LINFORTH. Mr. President, may I add a word? So far as the filing of these complaints is concerned, so far as the making of the orders appointing receivers is concerned, so far as the making of the orders approving the appointment of attorneys is concerned—those matters are all admitted by the pleadings; and unless there is some special or particular purpose in asking for the offer in the record of some one of these papers, it seems to me that it is a useless encumbering of the record here.

Mr. Manager PERKINS. Mr. President, there is no desire on the part of the managers to encumber the record, but it is of prime importance to show the contents of some of these papers. As was stated a moment ago, the Prudential Holding Co. had an equity receiver appointed by Judge Louderback. A motion was made to dismiss that receivership. Before that motion was determined, a petition in bankruptcy was filed, and the respondent, on the sole ground that the receiver in equity had been appointed, threw the concern into bankruptcy, and 2 days later dismissed the very basis of the bankruptcy, namely, the equity receivership.

The PRESIDING OFFICER. The paper will be admitted.

(See U.S.S. Exhibit 35.)

Mr. Manager PERKINS. We offer order signed by the respondent, Harold Louderback, September 30, 1931, in the matter of the Prudential Holding Co., ordering that G. H. Gilbert, of San Francisco, Calif., be appointed receiver.

The PRESIDING OFFICER. The paper will be admitted.

(See U.S.S. Exhibit 36.)

Mr. LINFORTH. Mr. President, may I ask the manager please to identify in what case that was?

Mr. Manager PERKINS. It is identifiable by No. 21022–S in Bankruptcy.

Mr. President, we offer petition for receiver and order appointing receiver made by Judge Louderback October 10, 1931, appointing Dinkelspiel & Dinkelspiel, and others, attorneys of Gilbert, receiver in bankruptcy, in the Prudential Holding Co. matter.

The PRESIDING OFFICER. It will be admitted.

(See U.S.S. Exhibit 37.)

Mr. Manager PERKINS. We offer order signed by Judge St. Sure, United States district judge in the southern division of the United States District Court, Northern District of California, dismissing the bankruptcy matter of the Prudential Holding Co.

Mr. HANLEY. What is the date, Mr. President?

Mr. Manager PERKINS. Filed November 4, 1931, dated the same date.

The PRESIDING OFFICER. Without objection, it is admitted.

(See U.S.S. Exhibit 38.)

Mr. Manager PERKINS. We offer an order made in the District Court of the United States, Northern District of California, dated the 2d of October 1931 by Judge Louderback, granting defendant's motion to dismiss the bill of complaint.

The PRESIDING OFFICER. Without objection, it is admitted.

(See U.S.S. Exhibit 39.)

EXAMINATION OF HENRY H. M'PIKE

Mr. Manager BROWNING. Call Mr. H. H. McPike.

Mr. H. H. McPike, having been duly sworn, was examined and testified as follows:

By Mr. Manager BROWNING:

Q. State your full name, place of residence, and profession.—A. Henry H. McPike; I reside in the city of Oakland, Calif., and I am an attorney at law.

Q. Do you hold any official position under the United States Government?—A. Well, I expect to in a few days. I expect to be the United States district attorney for the northern district of California, having received the appointment but not having yet qualified.

Q. Have you been confirmed?—A. I have.

Q. Were you, in 1931, the attorney for the Prudential Holding Co.?—A. In that year I was the attorney for the company in two specific matters, one the case of Character Finance Co. against Prudential Holding Co., and another in the matter of the bankruptcy, an involuntary petition in bankruptcy against the Prudential Holding Co., both pending in the Northern District of California.

Q. What judge had the cases pending before him?—A. The Character Finance Co. against Prudential Holding Co. was before Judge Louderback.

Q. What is the nature of the Prudential Holding Co.; what kind of a business was it, or is it?—A. It was a financial company.

Q. What do they finance?—A. They were dealing in real properties, buildings, and borrowing and lending money. I was not connected with its business affairs at all.

Q. Do you know what the size of the concern was, what the financial size of it was?—A. The complaint in the case, I think, alleged that it was a corporation having an authorized capital of $5,000,000, and assets of about a million dollars.

Q. What was the first information you had, as attorney for this company, of the beginning of this suit of the Character Finance Corporation?—A. The suit of the Character Finance Co. against Prudential Holding Co. was commenced on Saturday, the 15th day of August, 1931, and I was employed on the following Monday—that would be the 17th day of August 1931—to defend that case, or make any motions I thought advisable.

Q. What course did you take in regard to defending the company in that suit?—A. A glance at the complaint showed me that the court had no jurisdiction, and I filed a motion to dismiss the action on the ground that the court had no jurisdiction.

Q. On what ground did you allege lack of jurisdiction?—A. The complaint in the first two paragraphs showed that the Prudential Holding Co. was a foreign corporation, organized under the laws of the State of Nevada, and that the plaintiff, the Character Finance Co., had its residence in the southern district of California, in Los Angeles County.

Q. What motion did you make?—A. I made a motion to dismiss the action on the ground of lack of jurisdiction.

Q. How soon did you file that motion?—A. If I may look at a memorandum, I could give you the date of it.

Q. Please refer to it.—A. (Referring to paper.) The complaint was filed on Saturday, August 15, 1931, and on the 20th day of August 1931 we filed a motion to dismiss the action.

Q. How soon did you have a hearing on that motion, or how soon did you ask for a hearing?—A. We asked for a hearing on the 24th day of August 1931.

Q. When were you granted a hearing?—A. The matter was heard on the 29th day of August 1931.

Q. What action, if any, was taken by the court at that hearing?—A. The matter was taken under submission by the court after argument, after oral argument.

Q. Were any briefs filed, or was there any request for briefs to be filed?—A. The counsel for the plaintiffs asked for a brief time, a day or two, to file additional points and authorities. My recollection is that they did not file any.

Q. Was there any time set in which they could file them?—A. It was expected—I do not remember that it was stated specifically, but it was expected—that it would be done within a day or two.

Q. Who was appointed receiver in the case?—A. Guy Gilbert.

Q. Do you know who were appointed his attorneys?—A. A firm of lawyers called Dinkelspiel & Dinkelspiel.

Q. When did they take charge?—A. They took charge on the same day that the receiver was appointed, Saturday, the 15th day of August.

Q. Did they continue to have charge of it throughout this period you have described that the matter was being heard by the court?—A. They did.

Q. What other steps did you take, if any, after the matter was submitted to the court on the last date you mentioned?—A. I telephoned to the secretary of the judge and asked if any disposition had been made of the matter, and I was told that it would be necessary for me to go into court and make a formal motion that it be submitted, which I did.

Q. When was that made?—A. Sometime, I could not say, but approximately a week or 10 days after the 29th of August.

Q. How soon after you received the notice of the necessity for doing it?—A. On the 2d day of October a motion was granted to dismiss.

Q. How long was it after it was submitted to the court before the motion was granted?—A. My memorandum here says, submitted August 29 and motion granted October 2.

Q. In the meantime, was there a bankruptcy petition filed against the Prudential Holding Co.?—A. A petition in involuntary bankruptcy was filed on the 5th day of September, 1931.

Q. What attorneys filed the original equity petition?—A. Messrs. Gold, Quittner & Kearsley, a firm of Los Angeles attorneys.

Q. What firm of attorneys filed the petition in bankruptcy?—A. Messrs. Janeway, Beach & Hankey.

Q. State whether or not there was any connection between the petitioners in each of these two cases.—A. Of my own knowledge, I could not say. I could say from information obtained from others that there was some relationship, but just what it was I do not know.

Q. When the petition in bankruptcy was filed, in whose court was it filed?—A. It was assigned to Judge St. Sure's court in the same district.

Q. Who acted on the petition?—A. Judge Louderback.

Q. What action did he take?—A. He appointed Guy Gilbert as receiver of the property.

Q. Whom did he appoint as his attorneys?—A. Messrs. Dinkelspiel & Dinkelspiel.

Q. What was the ground of bankruptcy alleged in the petition?—A. Only one ground of bankruptcy was alleged, and that was the appointment of the receiver in the equity case of Character Finance Corporation against Prudential Holding Co.

Q. When were the appointments made of the receiver in bankruptcy and his attorney—what date, if you know?—A. The date of the appointment of the receiver in bankruptcy?

Q. Yes.—A. I have not a memorandum of that, but I believe it was the same day.

Q. Was it before or after the dismissal of the equity petition?—A. It was before the dismissal of the equity petition.

Q. How long before?—A. Two or three days.

Q. Then, who acted on the equity petition to dismiss?—A. Judge Louderback made the order dismissing the equity suit.

Q. After the appointment of the receiver and his attorneys in the bankruptcy matter, what court then acted on it to the termination of the suit?—A. Judge St. Sure.

Q. What action did he take?—A. On behalf of the Prudential Holding Co. we made a motion to dismiss the bankruptcy proceeding on the ground that the only act of bankruptcy set forth was the appointment of a receiver in the Character Finance Co. case against the Prudential Holding Co., and that as the court in that matter had no jurisdiction to appoint a receiver, the proceedings being null and void, there was no act of bankruptcy.

Q. What action did the court take?—A. Judge St. Sure granted our motion to dismiss the bankruptcy.

Q. Did he make a statement about it at the time he granted your motion?

Mr. LINFORTH. I submit that any such statement, Mr. President, would be hearsay and not binding on the respondent here.

The PRESIDING OFFICER. Will the reporter please read the question?

The Official Reporter read as follows:

Q. Did he make a statement about it at the time he granted your motion?

The PRESIDING OFFICER. How is that material?

Mr. Manager BROWNING. This matter was pending in Judge St. Sure's court. Judge Louderback, in Judge St. Sure's absence, under the agreement which they had, appointed the receiver and his attorney in Judge St. Sure's court. After he returned, Judge St. Sure, in acting upon the matter and dismissing the bankruptcy proceeding, made a statement in open court in connection with his action, and that is the statement which we submit should go into the record.

Mr. LINFORTH. May I add this word: Whatever order Judge St. Sure made upon the hearing of that application, of course, is competent evidence here; whatever he may have said which did not form the basis of his order, which did not enter into the making of his order, surely cannot be binding evidence against the respondent here.

The PRESIDING OFFICER. May I inquire of the witness whether that statement was made from the bench?

The WITNESS. It was.

The PRESIDING OFFICER. Then the question is admissible.

By Mr. Manager BROWNING:

Q. State what it was.—A. It was upon the motion of the petitioners in bankruptcy to set aside the order of Judge St. Sure dismissing the bankruptcy, and the ground of that motion was that the court had not sufficiently considered certain authorities filed by the petitioners in bankruptcy, and the judge said that he did examine the authorities and he found the authorities against them and that he found a bad smell about the case.

Q. After that time what has been the status of the Prudential Holding Co.?—A. After that time I ceased to be connected with the company.

Q. Do you know whether or not it is in receivership now?—A. That is my information. There is an equity receivership in the State of Nevada.

Q. Do you know what brought on the equity receivership in Nevada?—A. I could only say that I have been informed that it was the result of these proceedings in San Francisco that I have mentioned.

Q. I will ask if you know whether suit has been brought against the parties who instituted this suit in California?

Mr. LINFORTH. One minute. May it please you, Mr. President, we maintain that such a question as that cannot be binding evidence against this respondent.

Mr. Manager BROWNING. We withdraw it, Mr. President, if there is any objection to it.

The PRESIDING OFFICER. The question is withdrawn.

Mr. Manager BROWNING. You may take the witness.

Cross-examination by Mr. LINFORTH:

Q. Mr. McPike, when Judge St. Sure made the remark that you have just referred to, to whom did you understand he was referring—to Judge Louderback?—A. I only know what he said, and I cannot say whether he referred to the judge or the counsel and party. My own impression, if I were to give that, would be that he was referring to the parties and their attorneys.

Q. In the proceedings that you took, the motion to dismiss, the receiver and his attorneys took part, did they?—A. Not in open court.

Q. And when you made the motion to dismiss in the bankruptcy proceedings they did not appear in opposition to your motion?—A. No.

Q. Were the counsel who appeared and offered resistance to your motion the counsel for the plaintiff in the action?—A. There were a number of attorneys who came in in that matter besides the attorneys for—no; not the attorneys for the plaintiff. Excuse me; I missed your question.

Q. Afterward were there certain interventions that were filed in that matter?—A. There were two.

Q. And other counsel appeared in those intervention matters?—A. In the intervention matters, and I think representing the petitioners in bankruptcy.

Q. I understood you to say that the motion to dismiss the matter before Judge Louderback came on to be heard on the 29th of August.—A. Excuse me; I will look at the memorandum again. [A pause.] My memorandum shows motion to dismiss filed August 20; August 24 the date of hearing; August 29 submitted.

Q. At that time were some applications granted to file briefs and authorities?—A. At the time of the hearing, the oral argument, an application was granted for that purpose.

Q. To refresh your memory, Mr. McPike, merely, do you recall whether or not after you made the motion to have the case submitted or your motion submitted, it was submitted as of the 19th of September?—A. I do not recall the date.

Q. Calling your attention to page 311 of the record, you were a witness upon the preliminary hearing out in San Francisco?—A. Yes, sir.

Q. I call your attention to this language found at page 311 of the record of the hearing:

> The bankruptcy receiver was appointed on September 30 and qualified October 2. The motion to dismiss the equity proceedings was submitted September 19 and granted by the judge on October 2, so that the bankruptcy receiver was appointed 2 days before the dismissal of the equity suit.

Does the reading of that refresh your memory as to when the motion to dismiss the equity matter was submitted?—A. It does not, because at that time I testified as to the date from a memorandum handed to me by my associate counsel in the matter, Mr. Hawkins, and I am now testifying from a memorandum submitted by him to me in the last few days as to the date, and it says August 29. So it is not a matter of recollection with me.

Q. When was it, Mr. McPike, if you recall, that you made the motion to have the matter stand submitted—after your telephone message to the secretary of the judge?—A. After telephoning to the judge, or telephoning to his secretary, rather, I think I went out promptly the next morning.

Q. Are you prepared to say, then, with any degree of certainty, when the motion itself was submitted?—A. No; I am not—not from recollection.

Redirect examination by Mr. Manager BROWNING:

Q. Was this equity receivership ex parte or was your company present at the hearing?

Mr. HANLEY. Just a moment. The question calls for hearsay testimony. It calls for the opinion of the witness as to what was done. It is a matter of record, if there is a record of it. It is incompetent, irrelevant, and immaterial.

The PRESIDING OFFICER. Will the reporter please read the question?

The Official Reporter read as follows:

> Q. Was this equity receivership ex parte or was your company present at the hearing?

Mr. LINFORTH. May I add to what has been said, Mr. President, that the witness has already declared that he did not become associated with the company or employed in the matter until 2 days after the appointment of the receiver.

The PRESIDING OFFICER. If the witness knows of his own knowledge, he may answer the question.

The WITNESS. I do not know of my own knowledge.

Mr. Manager BROWNING. That is all.

The PRESIDING OFFICER. Call the next witness.

EXAMINATION OF C. M. HAWKINS

C. M. Hawkins, having been duly sworn, was examined and testified as follows:

By Mr. Manager BROWNING:

Q. Please state your name and place of residence and your profession.—A. My name is C. M. Hawkins, I live in Oakland, Calif., and I am a lawyer.

Q. In 1931 did you represent, in association with other attorneys, the Prudential Holding Co. of Oakland, Calif.?—A. I represented the Prudential Holding Co. of Los Angeles at Oakland.

Q. Were you their retained counsel or did you just represent them in the one case?—A. I was their retained counsel.

Q. When did you first hear of the suit of the Character Finance Co. against the Prudential Holding Co.?—A. About 2 o'clock on Saturday, the 15th of August 1931—2 o'clock in the afternoon.

Q. Where were you when you heard of it?—A. I was in Los Angeles.

Q. How did you get the message?—A. By a telephone call from the secretary of the company.

Q. What was the information you received?—A. The information was that there was a padlock on the door. I asked what it was, and was told the Character Finance Corporation. I said, "Well, I will be home tonight and see you tomorrow."

Q. Did you get back that evening?—A. I got back the next morning; I came through that night.

Q. What did you find the condition to be when you got back?—A. I found a padlock on the front door and the company supposedly in the hands of a receiver.

Q. Who was the receiver?—A. Mr. G. H. Gilbert.

Q. Did the company have any notice before Saturday afternoon, when Mr. Gilbert took charge, of the suit of the Character Finance Co. against it?

Mr. HANLEY. We object on the ground that the question calls for his opinion with reference to that matter and it does not call for any testimony of his own knowledge. It only calls for something that had been told him.

The PRESIDING OFFICER. Do you know of your own knowledge? Can you answer the question from your own knowledge?

The WITNESS. I know what the facts are; yes.

The PRESIDING OFFICER. State what the facts are.

The WITNESS. The company did not have any notice.

By Mr. Manager BROWNING:

Q. Was the company represented at the hearing when the petition was granted?

Mr. HANLEY. We object to that because it calls for his opinion again.

Mr. Manager BROWNING. He is attorney for the company. He ought to know.

Mr. HANLEY. If he was not present in San Francisco when the receiver was appointed, it necessarily calls for hearsay testimony.

The PRESIDING OFFICER. It is all subject to cross-examination. If the witness says he knows, he may answer the question. Do you know and can you answer the question of your own knowledge?

The WITNESS. I should like to have it read.

The PRESIDING OFFICER. The Official Reporter will read the question.

The Official Reporter read the question as follows:

Q. Was the company represented at the hearing when the petition was granted?

The WITNESS. Not legally.

Mr. HANLEY. That calls for a legal conclusion and opinion which this very Senate is to determine.

The PRESIDING OFFICER. That is subject to cross-examination.

By Mr. Manager BROWNING:

Q. What steps were taken by the company, if you know?—A. Do you mean following the appointment?

Q. Following this situation.—A. On the 20th of August we filed a motion to dismiss the case in the department in which the case was in the United States court in San Francisco.

Q. What was the ground of your motion?—A. That the court was without jurisdiction of the case.

Q. Before that let me ask you what was the nature of the business of the Prudential Holding Co. which it carried on?—A. The Prudential Holding Co. owned stock in other corporations. It owned real estate. It owned some notes, some unsecured accounts, and was a general trading or brokerage company.

Q. What were the capital and the assets of the company?—A. The authorized capital was $5,000,000. The assets at that time had a book value of something like $1,150,000 to $1,250,000, as I recall the figures.

Q. What were the liabilities, if you know?—A. On the books something less than $1,000,000—around $600,000.

Q. Was the company solvent or insolvent at that time?—A. The company was at that time like most other companies were at the same time. It was pressed for money, but it was going on and running its business and operating its business.

Q. What action was taken on the motion which you filed on the 20th of August?—A. The final action was that the motion was granted.

Q. When?—A. October 2.

Q. How many questions were involved in the motion?—A. Two.

Q. What were they?—A. One was as to whether or not under code section 51 the court had jurisdiction. The other question was whether or not, under equity rule 25, the complaint was verified properly.

Q. What was the nature of the verification of the petition?—A. The verification was made by the attorney for the company on information and belief.

Q. The attorney for what company?—A. For the Character Finance Corporation.

Q. That is the plaintiff?—A. The plaintiff.

Q. Did the person who made the verification pretend to know the facts of his own knowledge?—A. He did not.

Q. Did you contact Mr. Gilbert as receiver of the company at any time near the appointment?—A. Yes; I met Mr. Gilbert on the morning of August 17, Monday morning following the appointment.

Q. What transpired between you?—A. Mr. Gilbert came into the office with Mr. John Walton Dinkelspiel and asked what we were going to do with reference to turning over all records and business to him. We talked about that and I finally directed that the company turn the matters over to him under protest and have him sign a receipt showing that we had turned the records and files to him under protest.

Q. Was that done on Monday the 17th?—A. That was Monday morning the 17th.

Q. What did he do as a receiver, if you know?—A. He just sat around there and he collected the moneys that came in. He opened the mail that came in, and he had charge of the affairs there until the 2d of October.

Q. After the motion to dismiss petition was made, what happened in court with regard to it?—A. I was not in court. I could not answer of my own knowledge.

Q. You did not go into court on the motion?—A. No. That was handled by Mr. McPike entirely.

Q. Do you know whether or not the petition for bankruptcy was filed?—A. Yes.

Q. Did you have anything to do with that in court?—A. No; not in court.

Q. What time was this petition filed?—A. The bankruptcy?

Q. Yes.—A. I think September 5, 1931.

Q. In whose court was that?—A. That fell in Judge St. Sure's court.

Q. Who acted on that, if you know?—A. Judge St. Sure acted on it and Judge Louderback acted on it.

Q. Who appointed the receiver and his attorney in bankruptcy?—A. Judge Louderback.

Q. Whom did he appoint?—A. He appointed Mr. Gilbert, the same Mr. G. H. Gilbert.

Q. Did he appoint any counsel for him?—A. Dinkelspiel & Dinkelspiel.

Q. You stated that the motion to dismiss the petition in equity was acted on October 2 by Judge Louderback?—A. Yes.

Q. What was his action?—A. He granted the motion to dismiss.

Q. When did he appoint Gilbert and Dinkelspiel as receiver and attorney, respectively, in the bankruptcy proceeding?—A. September 30, 1931.

Q. And they qualified on October 2?—A. That is what I understand.

Q. What kind of bond was given by the receiver when he took charge of this business?—A. You mean in the equity case?

Q. Yes.—A. The receiver gave a bond conditioned to obey the orders of the court and perform his duties as receiver, and running to the United States of America.

Q. Was there any indemnity bond given to the company itself?—A. There was not.

Q. Any to the creditors of the company?—A. There was not.

Q. What was the nature of the complainant company, the Character Finance Corporation?—A. I really do not know.

Q. Was the complainant company a creditor of the corporation?—A. The complainant company claimed to be a creditor, which was denied by the Prudential Holding Co., and in my judgment was not a creditor.

Q. Were they a stockholder in the Prudential Holding Co.?—A. Yes; it was a stockholder.

Q. After the dismissal of the equity receivership by Judge Louderback, what action, if you know, did Judge St. Sure take in the bankruptcy matter?

Mr. HANLEY. He said he was not present in court and did not know except from hearsay.

The PRESIDING OFFICER. Do you know of your own knowledge?

The WITNESS. The only way I know is based on court records. I know of my own knowledge what they show.

By Mr. Manager BROWNING:

Q. Do you know from the court records what actually transpired with regard to the bankruptcy matter?—A. Do you mean in the St. Sure department?

Q. Yes.—A. Yes; I have read the court records on that.

Q. What was the action taken?—A. The action was that it was dismissed.

Q. After dismissal of the bankruptcy matter and of the equity receivership, what has been the legal status of the Prudential Holding Co. since that time?—A. The Prudential Holding Co. then operated uninterruptedly until the 14th of March 1932, when it was placed in an equity receivership in the district court of Nevada.

Q. What precipitated that receivership, if you know?—A. It was the claims of creditors who filed the suit, and the general reason for it was the interference of these various receiverships.

Q. Receiverships in California?—A. Yes.

Q. You refer to the receiverships in which Mr. Gilbert was appointed receiver by Judge Louderback?—A. I do; yes.

Mr. Manager BROWNING. Take the witness.

Cross-examination by Mr. LINFORTH:

Q. Mr. Hawkins, how long have you been attorney for the Prudential Holding Co.?—A. From August 1930.

Q. Did you have personal knowledge as to its financial condition at the time of the filing of the application for the appointment of a receiver in the equity suit?—A. To some extent I did, and to some extent, no.

Q. At that particular time was not the company hopelessly insolvent?—A. I do not think so.

Q. How much did it owe at that time?—A. Oh, somewhere between $500,000 and $600,000, I would say.

Q. Did it not at that time owe in excess of $1,000,000?—A. No, sir.

Q. Did it have any assets of any kind at the time of the making of the application for the appointment of a receiver that were not encumbered by mortgages and trust deeds and pledged——A. Yes; it had some.

Q. Did it have any that had any value?—A. Yes.

Q. Any cash value?—A. Yes.

Q. What property did it have at that time that was unencumbered that had any value?—A. It had some cash in the bank.

Q. How much did it have in the bank at that time?—A. I do not know.

Q. Was it a few hundred dollars?—A. Yes.

Q. No more?—A. No.

Q. In no one of its bank accounts?—A. No, sir.

Q. Did it have a bank account in Oakland, even, its headquarters?—A. I do not know as to that.

Q. Is it not a fact that the only bank account it had at the time of the application for the appointment of a receiver in the equity proceeding was a bank account of about $80 in the city of Reno, in the State of Nevada?—A. No. It had a bank account in the city of Reno and had more money than $80 in the bank account. Whether it had any other bank account or not I am not certain at that time.

Q. Do you say at the time of the filing of the petition that it had more than $80 to its credit in the bank in the city of Reno?—A. I think so; yes.

Q. Do you know or are you stating from what someone has said to you?—A. No; I am giving what is my present recollection of the fact at that time.

Q. How much did it have in the account in the bank of Reno at that time?—A. My recollection is something over $300.

Q. How many pieces of real estate did it own?—A. Four that I know about, and I am not certain as to others.

Q. Three were in the city of Oakland?—A. Yes.

Q. Apartment houses?—A. Yes.

Q. And second mortgages on each?—A. Yes; I think they were.

Q. And under foreclosure at that particular time?—A. I do not think so.

Q. Were any of them under foreclosure at that particular time?—A. That depends on what you mean by "foreclosure", Mr. Linforth. I do not know what you mean.

Q. Under notice of sale under trust deeds, or under notice in foreclosure suits.—A. I think in one of them, at San Jose, a notice of intention to foreclose had been filed before this time; in the others, I think not.

Q. How about the three in the city of Oakland? Was not each one under foreclosure sale or suit at that time?—A. No; I do not think so.

Q. Was there any equity in either piece of property?—A. Well, I am not qualified as a real-estate expert, and I cannot answer that.

Q. Did it have any other property except stocks in companies that it had taken in exchange?—A. It had some real estate in Los Angeles County. It had some notes and accounts. I guess all of those had been taken in for exchange with stock except a property in Stanislaus County, for which an apartment house had been traded.

Q. It is a fact, is it not, that during the time that you knew of this company it was a company that was operating in taking in properties of other encumbered companies and giving in part payment therefor stock in its own company?—A. Yes, sir; to some extent that is its business, or was its business.

Q. It held stock, did it not, in the Character Finance Co.?—A. I do not think so; no.

Q. The stock of the Character Finance Co. was of no value, was it?—A. I could not say. I do not know.

Q. Do you know of any assets that were of any value at all that this company owned or possessed at the time of the equity receiver except the real estate that you have referred to, encumbered as you say it was?—A. Yes; I think they had some value—not very much.

Q. What property did it have that had any value, to your knowledge?—A. Well, it had some causes of action against the bank in Bakersfield that we figured had some value.

Q. That is, it had some lawsuits? Is that it?—A. Yes.

Q. But did it have any tangible property of any value at the time of the filing of this equity receivership except these three apartment houses in Oakland and the one in San Jose?—A. It had a ranch in Stanislaus County which, I think, had some tangible value.

Q. Do you remember talking with Mr. John Dinkelspiel and Mr. Gilbert in Oakland on the 17th of August 1931?—A. Yes; I recall talking to them.

Q. Did you tell those gentlemen at that time that there were no less than six lawsuits against the Prudential Holding Co. pending in Los Angeles County?—A. I told them the number. I do not recall what the number was.

Q. Did you tell them also at that time that the assets taken over at Bakersfield were given at a highly fictitious value, and were not worth as much as $250?—A. I do not recall that I did.

Q. You do not recall that you did?—A. No.

Q. Did you also tell them at that time that the Prudential Holding Co. had made a failure of liquidating any of the assets that it had received from the Character Finance Co.,

and so far as that branch of its business was concerned that it was totally of no value?—A. I do not recall that we discussed that at all, Mr. Linforth.

Q. Is it not a fact that you told Mr. Gilbert and Mr. Dinkelspiel, at the time to which I have called your attention, that there were no tangible assets of any kind except the 3 apartment houses and the 1 apartment house in San Jose?—A. No.

Q. And did you not tell them at that time that each one of the four was in process of foreclosure, and there was no equity in either one?—A. No.

Q. You were not present at the time the application for the receiver was made?—A. No, sir.

Q. Did you know, at that time, Mr. J. H. Stephens?—A. Yes; I knew him.

Q. Was he vice president of this company at that time?—A. Yes.

Q. Did you know that he appeared before Judge Louderback at the time the application for receiver was made, and announced that he was the vice president of the company?—A. I never knew that until you took his deposition in San Francisco last week, or week before.

Q. How long had he been vice president of the company prior to that?—A. Probably 6 or 7 months.

Mr. LINFORTH. I think that is all.

The PRESIDING OFFICER. Are there further questions?

Redirect examination by Mr. Manager BROWNING:

Q. Just one question. Did any of the rest of the firm, or the attorneys for the firm, know that James H. Stephens was appearing there in court?

Mr. LINFORTH. One moment, Mr. President. We object to that as calling for hearsay. How can this witness state what anyone else knew or did not know?

The PRESIDING OFFICER. The witness may answer the question if he knows of his own knowledge.

The WITNESS. I cannot answer that.

By Mr. Manager BROWNING:

Q. As counsel for it, was he authorized by you to do so?—A. He was not.

Q. After the dismissal of these equity and bankruptcy receiverships, state whether or not that company has taken any legal steps against those who brought these receiverships.

Mr. LINFORTH. Just a moment, Mr. President. We object to that as being utterly immaterial and not binding on this respondent.

The PRESIDING OFFICER. How would that be material?

Mr. Manager BROWNING. It would show, of course, the inexcusableness of the matter, and the fact that these people resented these actions that were brought against them, and thought they had legal redress.

The PRESIDING OFFICER. The objection is sustained.

By Mr. Manager BROWNING:

Q. What part did Mr. Stephens have in the direction of this concern?—A. None.

Mr. Manager BROWNING. Stand aside.

The PRESIDING OFFICER. Call the next witness.

Mr. LINFORTH. Mr. President, if it is in order, may I suggest that we have a recess or an adjournment? This matter has been on since 10 o'clock this morning.

Mr. McNARY. Mr. President, I desire to propound a question to the Senator from Arizona [Mr. ASHURST]. Does the Senator contemplate night sessions this week for the impeachment trial?

Mr. ASHURST. Mr. President, so far as I know at this time, night sessions are not contemplated, although it is earnestly hoped that the trial will be finished by Saturday night. It may be necessary on Friday and Saturday nights to hold night sessions in order to finish the trial at that time. No night sessions are contemplated at this time.

Mr. McNARY. I have asked the Senator the question because a number of inquiries have come to me, and I had hoped that if the Senator desired to have a night session tomorrow night he would give the customary 1 day's notice.

Mr. ASHURST. Senators are entitled to that courtesy. As soon as I can find out tomorrow, I will advise the able Senator from Oregon.

EXHIBITS ADMITTED IN EVIDENCE

The documents this day admitted in evidence, marked, respectively, "U.S.S. Exhibit 4" to "U.S.S. Exhibit 39", both inclusive, are as follows:

U.S.S. EXHIBIT 4

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

Extra sessions no. 1

IN THE MATTER OF THE ESTATE OF HOWARD BRICKELL, DECEASED

(No. 46618, order appointing appraisers and inheritance-tax appraiser)

It is ordered that W. S. Leake, Fairmont Hotel; G. H. Gilbert, 1600 California Street; R. F. Mogan, Phelan Building; three disinterested persons, competent and able to act, be and they are hereby, appointed appraisers of the estate of Howard Brickell, deceased; and good cause appearing therefore

It is further ordered that said R. F. Mogan, duly appointed, qualified and acting inheritance-tax appraiser in and for the said city and county above named be, and he is hereby, appointed and directed to fix the clear market value of the property of said estate at the death of said decedent above named, and to appraise all interests, inheritances, transfers, and property in said estate subject to the payment of inheritance tax under the laws of the State of California.

Done in open court this 5th day of April 1927.

HAROLD LOUDERBACK,
Judge of the Superior Court.

OFFICE OF THE COUNTY CLERK
OF THE CITY AND COUNTY OF SAN FRANCISCO.

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, and ex officio clerk of the superior court thereof, do hereby certify the foregoing to be a full, true, and correct copy of the order appointing appraisers and inheritance-tax appraiser in the matter of the estate of Howard Brickell, deceased, now on file and of record in my office.

Witness my hand and the seal of said court this 2d day of May A.D. 1933.

H. I. MULCREVY,
County Clerk.
By S. I. HUGHES,
Deputy County Clerk.

U.S.S. EXHIBIT 5

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

LAURA A. HEATH, PLAINTIFF, *v.* FRANK E. HEATH, S. E. BIDDLE, GENEVIEVE BRENNAN, ELIZABETH MOWRY, CARRIE BAKER, DELBERT WESTOVER, IDA WESTOVER, WALTER HOFF, AND IRMA HOFF, DEFENDANTS. ORDER APPOINTING RECEIVER

Upon reading the verified complaint and affidavit of Laura A. Heath, this day filed herein, and good cause appearing therefor, and on motion of A. L. O'Grady, attorney for the plaintiff.

It is ordered that W. S. Leake be, and is hereby, appointed a receiver to take and keep possession of all the community property of the plaintiff and the defendant, including the income, rents, issues, and profits thereof, to collect debts, to compound for and compromise the same, to make transfers, and generally to do such acts respecting the said property as the court may authorize, the said receiver to act as such until further order of the court.

That a bond under section 566 C.C.P. for $25,000 be given and filed.

It is further ordered that before entering upon his duties the said receiver shall be sworn to perform them faithfully, and shall execute an undertaking to the State of California, approved by the court or judge, in the sum of $5,000, to the effect that he will faithfully discharge the duties of receiver in the said action and obey the orders of the court therein.

HAROLD LOUDERBACK, *Judge.*

Dated May 24, 1927.
(Endorsed:) Filed May 25, 1927.

H. I. MULCREVY, *Clerk.*
By H. BRUNNER, *Deputy Clerk.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, State of California, and ex officio clerk of the superior court, in and for said city and county, hereby certify the foregoing to be a full, true, and correct copy of the original order appointing receiver in the above-entitled cause, filed in my office on the 25th day of May A.D. 1927.

Attest my hand and seal of said court this 2d day of May A.D. 1933.

[SEAL]

H. I. MULCREVY, *Clerk.*
By E. R. GREEN, *Deputy Clerk.*

U.S.S. EXHIBIT 6

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

LAURA A. HEATH, PLAINTIFF, *v.* FRANK E. HEATH, S. E. BIDDLE, GENEVIEVE BRENNAN, ELIZABETH MOWRY, CARRIE BAKER, DELBERT WESTOVER, IDA WESTOVER, IDA WESTOVER, WALTER HOFF, AND IRMA HOFF, DEFENDANTS

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

W. S. Leake, being duly sworn, deposes and says:

That he is the person who was appointed as a receiver in the above-entitled action by an order of this court, dated the 24th day of May 1927; and that he will faithfully perform his duties as such receiver to the best of his ability.

W. S. LEAKE.

Subscribed and sworn to before me this 24th day of May 1927.

[SEAL] MAUDE REYNOLDS,
Notary Public in and for the City and County of San Francisco, State of California.

My commission expires June 23, 1927.

(Endorsed:) Filed May 25, 1927.

H. I. MULCREVY, *Clerk.*
By H. BRUNNER, *Deputy Clerk.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, State of California, and ex officio clerk of the superior court, in and for said city and county, hereby certify the foregoing to be a full, true, and correct copy of the original oath of receiver in the above-entitled cause, filed in my office on the 25th day of May A.D. 1927.

Attest my hand and seal of said court this 2d day of May A.D. 1933.

[SEAL] H. I. MULCREVY, *Clerk.*
By E. R. GREEN, *Deputy Clerk.*

U.S.S. EXHIBIT 7

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

IN THE MATTER OF THE ESTATE OF HOWARD BRICKELL, DECEASED. NO. 46618. EXTRA SESSIONS NO. 1. INVENTORY AND APPRAISEMENT

Oath of appraisers

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

R. F. Mogan (inheritance-tax appraiser), W. S. Leake, and G. H. Gilbert, duly appointed appraisers of the estate of Howard Brickell, deceased, being duly sworn, each for himself says:

That he will truly, honestly, and impartially appraise the property of said estate which shall be exhibited to him, according to the best of his knowledge and ability.

R. F. MOGAN.
G. H. GILBERT.
W. S. LEAKE.

Subscribed and sworn to before me this 19th day of July 1927.

[SEAL] CHARLES SAMUELS,
Court Commissioner of the City and County of San Francisco, State of California.

ESTATE OF HOWARD BRICKELL, DECEASED, TO R. F. MOGAN (INHERITANCE-TAX APPRAISER), W. S. LEAKE, AND G. H. GILBERT

To services in appraising foregoing, — days, at $5 per day each, services, and costs $1,750

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

R. F. Mogan (inheritance-tax appraiser), W. S. Leake, and G. H. Gilbert, the appraisers named above, being duly sworn, each for himself says: That the foregoing bill of items is correct and just, and that the services have been duly rendered as therein set forth.

R. F. MOGAN.
G. H. GILBERT.
W. S. LEAKE.

Subscribed and sworn to before me this 20th day of December 1927.

[SEAL] CHARLES SAMUELS,
Court Commissioner of the City and County of San Francisco, State of California.

We, the undersigned duly appointed appraisers of the estate of Howard Brickell, deceased, hereby certify that the property mentioned in the foregoing inventory has been exhibited to us and that we appraise the same at the sum of $1,020,804.38.

R. F. MOGAN.
G. H. GILBERT.
W. S. LEAKE.

(Endorsed:) Filed December 21, 1927.

H. L. MULCREVY, *Clerk.*
By E. B. GILSON, *Deputy Clerk.*

OFFICE OF THE COUNTY CLERK OF THE CITY AND COUNTY OF SAN FRANCISCO.

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, and ex officio clerk of the superior court thereof, do hereby certify the foregoing to be a full, true, and correct copy of the oath of appraisers and certificate of appraisers in the matter of the estate of Howard Brickell, deceased, now on file and of record in my office.

Witness my hand and the seal of said court this 2d day of May A.D. 1933.

[SEAL] H. I. MULCREVY, *County Clerk.*
By S. I. HUGHES, *Deputy County Clerk.*

U.S.S. EXHIBIT 8

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

IN THE MATTER OF THE APPLICATION OF ANTONIO DRAGA, A JUDGMENT CREDITOR, FOR APPOINTMENT OF APPRAISERS TO APPRAISE HOMESTEAD. NO. 182347. EX. SESSION NO. 1

Order appointing appraisers

It appearing to the satisfaction of the court that a copy of the petition filed herein and a copy of the notice of the hearing of the appointment of appraisers was served according to law on Frank Machkota and Fannie Machkota, the claimants herein;

It is hereby ordered that W. S. Leake, Fairmont Hotel; W. H. Homer, 1921 Ocean Avenue; and John F. Mooney, 1012 Clayton Street, residents of the city and county of San Francisco, State of California, three disinterested persons, competent and able to act, be, and they are hereby, appointed appraisers to appraise the value of the real property described in the petition filed herein, and hereinafter described and claimed as a homestead by Frank Machkota and Fannie Machkota, as set forth in said petition; the following is a description of the real property herein referred to: All that certain real property situate, lying, and being in the city and county of San Francisco, State of California, and more particularly described as follows, to wit:

Beginning at a point on the northerly line of Bosworth Street, distant thereon 75 feet westerly from the northwesterly corner of Bosworth and Rousseau Streets, and running thence westerly along said line of Bosworth Street 32 feet and 6 inches; thence northwesterly at an angle of 103 degrees 27 minutes, with said line of Bosworth Street 131 feet and 1½ inches more or less to the right of way of the Southern Pacific Railroad Co.; thence northeasterly along said right of way 42 feet and 8¼ inches; thence at a right angle southeasterly 76 feet more or less to a point which is perpendicularly distant 86 feet and 8 inches westerly from the westerly line of Rousseau Street, and is also perpendicularly distant 63 feet northerly from the northerly line of Bosworth Street; thence easterly parallel with Bosworth Street 11 feet and 8 inches to a point which is perpendicularly distant 75 feet westerly from the westerly line of Rousseau Street; and thence southerly parallel with Rousseau Street 63 feet to the point of beginning.

Done in open court this 22d August 1927.

HAROLD LOUDERBACK,
Judge of the Superior Court.

(Endorsed:) Filed August 23, 1927.

H. I. MULCREVY, *Clerk.*
By H. BRUNNER, *Deputy Clerk.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, State of California, and ex-officio clerk of the superior court in and for said city and county, hereby certify the foregoing to be a full, true, and correct copy of the original order appointing appraisers in the above-entitled cause, filed in my office on the 23d day of August A.D. 1927.

Attest my hand and seal of said court this 2d day of May A.D. 1933.

H. I. MULCREVY, *Clerk.*
[SEAL] By E. R. GREEN, *Deputy Clerk.*

U.S.S. EXHIBIT 9

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

IN THE MATTER OF THE APPLICATION OF ANTONIO DRAGA, A JUDGMENT CREDITOR FOR APPOINTMENT OF APPRAISERS TO APPRAISE HOMESTEAD. NO. 182347. EXTRA SESSION NO. 1

Appraisement of value of homestead

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, State of California, and ex-officio clerk of the superior court thereof, do hereby certify that W. S. Leake, W. H. Homer, and John F. Mooney were appointed appraisers according to the provisions of sections 1245 to 1259, inclusive, of the Civil Code of the State of California to appraise the value of the homestead claimed by Frank Machkota and Fannie Machkota in and to the hereinafter-described property, by order of said court made on the 22d day of August 1927.

Witness my hand and the seal of said court this 1st day of September 1927.

[SEAL] H. I. MULCREVY,
Clerk.
By H. BRUNNER,
Deputy Clerk.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

W. S. Leake, W. H. Homer, and John F. Mooney, the duly appointed appraisers to appraise, according to the provisions of sections 1245 to 1259, inclusive, of the Civil Code of the State of California, the value of the homestead claimed by Frank Machkota

and Fannie Machkota in and to the real property described in the petition on file herein and hereinafter described, each being duly sworn, deposes and says: That he is a resident of the city and county of San Francisco, State of California; that he will faithfully and impartially appraise the value of the said homestead and perform the services appertaining thereto according to law, and faithfully and impartially perform the same according to the best of his knowledge and ability.

JOHN F. MOONEY.
W. S. LEAKE.
W. H. HOMER.

Subscribed and sworn to before me this 2d day of September 1927.

[SEAL] RAY SOPHIE FEDER,
Notary Public in and for the City and County of San Francisco, State of California.

The following is a description of the said real property described in the petition filed herein, and herein referred to: All that certain piece, parcel, or tract of land situate, lying, and being in the city and county of San Francisco, State of California, and more particularly described as follows, to wit:

Beginning at a point on the northerly line of Bosworth Street, distant thereon 75 feet westerly from the northwesterly corner of Bosworth and Rousseau Streets; and running thence westerly along said line of Bosworth Street 32 feet and 6 inches; thence northwesterly at an angle of 103° 27′ with said line of Bosworth Street 131 feet and 1½ inches, more or less, to the right of way of the Southern Pacific Railroad Co.; thence northeasterly along said right of way 42 feet and 8¼ inches; thence at a right angle southeasterly 76 feet, more or less, to a point which is perpendicularly distant 86 feet and 8 inches westerly from the westerly line of Rousseau Street, and is also perpendicularly distant 63 feet northerly from the northerly line of Bosworth Street; thence easterly parallel with Bosworth Street 11 feet and 8 inches to a point which is perpendicularly distant 75 feet westerly from the westerly line of Rousseau Street; and thence southerly parallel with Rousseau Street 63 feet to the point of beginning.

We, the undersigned appraisers duly appointed to appraise, according to the provisions of sections 1245 to 1259, inclusive, of the Civil Code of the State of California, the value of the said homestead, hereby certify that the said premises were viewed by us, and each of us, and that the value of the said premises exceeds the value of the homestead exemption, and we hereby appraise the value of the said premises claimed as the said homestead at the sum of $5,500.

We further certify that the said premises claimed as the said homestead cannot be divided without material injury, and that it is to the best interests of all that the said premises be sold as a whole.

Dated: September 2, 1927.

JOHN F. MOONEY, *Appraiser.*
W. S. LEAKE, *Appraiser.*
W. H. HOMER, *Appraiser.*

(Endorsed:) Filed September 2, 1927.

H. I. MULCREVY, *Clerk.*
By G. J. ROMANI, *Deputy Clerk.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, State of California, and ex-officio clerk of the superior court in and for said city and county, hereby certify the foregoing to be a full, true, and correct copy of the original appraisement of value of homestead in the above-entitled cause filed in my office on the 2d day of September A.D. 1927.

Attest my hand and seal of said court this 2d day of May A.D. 1933.

[SEAL] H. I. MULCREVY, *Clerk.*
By E. R. GREEN, *Deputy Clerk.*

U.S.S. EXHIBIT 10

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

LOUIS FRIEDMAN AND SAMUEL GERSON, PLAINTIFFS, *v.* ANNA FARRISCE, ALSO KNOWN AS "ANNA FARRISEE", FIRST DOE, SECOND DOE, FIRST ROE CO., A CORPORATION, AND SECOND ROE CO., A CORPORATION, DEFENDANTS. NO. 187453. DEPT. NO. EXTRA SESSION NO. 1

Order appointing receiver

Upon reading and filing the verified complaint of Louis Friedman and Samuel Gerson, plaintiffs in the above-entitled action, and it appearing therefrom to the satisfaction of this court that this is a proper case to appoint a receiver for the purpose and with the powers hereinafter mentioned;

It is ordered and decreed that W. S. Leake be, and he is hereby, appointed receiver in the above-entitled action to take and keep possession of the mortgaged personal property described in the complaint in the above-entitled action pending the trial of and judgment in said action and the further order of the court herein;

That before entering upon the duties of said trust, the said receiver shall execute an undertaking in the amount of $1,000 with two sufficient sureties to be approved by this court to the effect that he will faithfully discharge the duties of receiver in the above-entitled action and obey the orders of the court herein, and must be sworn by the clerk of this court to perform his duties faithfully, and that prior to this order becoming operative the above-named plaintiffs Louis Friedman and Samuel Gerson shall execute an undertaking in the amount of $2,500, with two sufficient sureties, to the above-named defendant Anna Farrisce to the effect that said Louis Friedman and Samuel Gerson will pay to said defendant all damages said defendant may sustain by reason of the appointment of said receiver and the entry by him upon his duties in case the said plaintiffs shall have procured such appointment wrongfully, maliciously, or without sufficient cause.

Order made this 18th day of October 1927.

HAROLD LOUDERBACK, *Judge.*

(Endorsed): Filed October 18, 1927.

H. I. MULCREVY, *Clerk.*
By G. J. ROMANI, *Deputy Clerk.*

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

LOUIS FRIEDMAN AND SAMUEL GERSON, PLAINTIFFS, *v.* ANNA FARRISCE, ALSO KNOWN AS ANNA FARRISEE, FIRST DOE, SECOND DOE, FIRST ROE CO., A CORPORATION, AND SECOND ROE CO., A CORPORATION, DEFENDANTS. NO. 187458. EXTRA SESSION NO. 1

Oath of receiver

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

W. S. Leake, being first duly sworn, deposes and says: That he is the person who was appointed by order of this court, dated the 18th day of October 1927, receiver in the above-entitled action now pending in said court, and that he will faithfully discharge the duties as such receiver in said action and obey the order of the court, so help him God.

W. S. LEAKE.

Subscribed and sworn to before me this 19th day of October 1927.

[SEAL] J. J. KERRIGAN,
Notary Public in and for the City and County of San Francisco, State of California.

(Endorsed:) Filed October 19, 1927.

H. I. MULCREVY, *Clerk.*
By G. J. ROMANI, *Deputy Clerk.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, State of California, and ex-officio clerk of the superior court in and for said city and county, hereby certify the foregoing to be a full, true, and correct copy of the original order appointing receiver and oath of receiver in the above-entitled cause on file in my office on the 6th day of May A.D. 1933.

Attest my hand and seal of said court this 6th day of May A.D. 1933.

[SEAL] H. I. MULCREVY, *Clerk.*
By H. BRUNNER, *Deputy Clerk.*

U.S.S. EXHIBIT 11

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

CHARLES MONSON, PLAINTIFF, *v.* HELEN LOUISE THOMAS, WALTER TOWNE, MRS. LEE J. FRANCIS, LEE J. FRANCIS, FIRST DOE, SECOND DOE, THIRD DOE, FOURTH DOE, AND FIFTH DOE, DEFENDANTS. NO. 187493. EXTRA SESSION NO. 1

Order appointing receiver

The motion of the plaintiff above named for appointment of a receiver came up regularly to be heard on this 27th day of October 1927, before the above-entitled court, Hon. Harold Louderback, judge, presiding therein, and it appearing that this is a proper case for said order, it is hereby

Ordered that W. S. Leake be, and he is hereby, appointed receiver to take possession of that certain apartment house and apartment-house business, consisting of the three upper floors, and all garages, store rooms, and basement, and other equipment thereof, situated at the northwesterly corner of Seventh Avenue and K Street, city and county of San Francisco, State of California, and known and designated as "No. 1495 Seventh Avenue", together with all the property appertaining thereto, and to continue the business thereof and to have power to collect and sue for any and all rentals accrued or accruing thereto, and to do any and all other acts that he may deem necessary in the course of and for the best interest of said business, and to sell the said business and the whole thereof, and he shall be vested with all the usual powers and rights of receivers appointed by this court.

It is further ordered that said W. S. Leake, upon taking the oath of said receivership, shall forthwith give a surety bond in the usual form in the sum of $1,000, and that plaintiff herein shall give bond in favor of the defendant, Mrs. Lee J. Francis, in the sum of $3,000, to the effect that the plaintiff will pay to the defendant, Mrs. Lee J. Francis, all damages she may sustain by reason of the appointment of such receiver, and the entry by him upon his duties, in case the plaintiff shall have procured such appointment wrongfully, maliciously, or without sufficient cause.

Done in open court this 27th day of October 1927.

HAROLD LOUDERBACK,
Judge of the Superior Court.

(Endorsed:) Filed October 27, 1927.

H. I. MULCREVY, *Clerk.*
By E. R. GREEN, *Deputy Clerk.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, State of California, and ex-officio clerk of the superior court in and for said city and county, hereby certify the foregoing to be a full, true, and correct copy of the original "order appointing receiver" in the above-entitled cause filed in my office on the 27th day of October A.D. 1927.

Attest my hand and seal of said court this 6th day of May A.D. 1933.

[SEAL] H. I. MULCREVY, *Clerk*
By H. BRUNNER, *Deputy Clerk.*

U.S.S. EXHIBIT 12

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

SAMUEL GERSON AND LOUIS FRIEDMAN, PLAINTIFFS, *v.* ANNA FARRISEE, DEFENDANT. NO. 188200. EXTRA SESSION NO. 1

Order appointing receiver

Upon reading and filing the verified complaint of Samuel Gerson and Louis Friedman in the above-entitled action, and it appearing therefrom to the satisfaction of this court that this is a proper case to appoint a receiver, for the purpose and with the powers hereinafter mentioned,

It is ordered and decreed that W. S. Leake be, and he is hereby, appointed receiver in the above-entitled action, to collect all rentals due and to become due to the above-named defendant from the subtenants occupying apartments in that certain apartment house known as No. 805 Bush Street, contained in that certain building at the southwest corner of Bush and Mason Streets, in said city and county of San Francisco, pending the trial of, and judgment in this action, and the further order of the court herein; and that out of said moneys so collected said receiver shall pay any and all expenses necessarily and properly incurred in the operation and conduct of said apartment house, and due and payable, and that the surplus of said moneys shall be by said receiver held subject to the order of this court.

That before entering upon the duties of said trust the said receiver shall execute an undertaking in the amount of $1,500, with two sufficient sureties to be approved by this court, to the effect that he will faithfully discharge the duties of receiver in the above-entitled action and obey the orders of the court herein, and must be sworn by the clerk of this court to perform his duties faithfully; and that prior to this order becoming operative the above-named plaintiffs, Samuel Gerson and Louis Friedman, shall execute an undertaking in the amount of $3,000 with two sufficient sureties to the above-named defendant Anna Farrisee, to the effect that said Samuel Gerson and Louis Friedman will pay to said defendant all damages she may sustain by reason of the appointment of said receiver and the entry by him upon his duties in case the said plaintiffs shall have procured such appointment wrongfully, maliciously, or without sufficient cause.

It is further adjudged and decreed that the said defendant, Anna Farrisee, be, and she hereby is, enjoined and restrained from the date hereof until the further order of this court from collecting or receiving, personally or through her agent or employee or interfering with the collection and receipt by said receiver, of such rentals from any of said subtenants.

Order made this 8th day of November 1927.

HAROLD LOUDERBACK, *Judge.*

(Endorsed:) Filed November 8, 1927.
H. I. MULCREVY, *Clerk.*
By H. BRUNNER, *Deputy Clerk.*

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

SAMUEL GERSON AND LOUIS FRIEDMAN, PLAINTIFFS, *v.* ANNA FARRISEE, DEFENDANT. NO. 188200. EXTRA SESSION NO. 1

Oath of receiver

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

W. S. Leake, being first duly sworn, deposes and says:

That he is the person who was appointed by order of this court dated the 8th day of November 1927, receiver in the above-entitled action now pending in said court and that he will faithfully discharge the duties of said receiver in said action and obey the orders of the court; so help him God.

W. S. LEAKE.

Subscribed and sworn to before me, this 9th day of November 1927.

[SEAL] J. J. KERRIGAN,
Notary Public in and for the City and County of San Francisco, State of California.

(Endorsed:) Filed November 9, 1927.
H. I. MULCREVY, *Clerk.*
By E. R. GREEN, *Deputy Clerk.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, State of California, and ex-officio clerk of the superior court in and for said city and county, hereby certify the foregoing to be a full, true, and correct copy of the original order appointing receiver and oath of receiver in the above-entitled cause on file in my office on the 6th day of May A.D. 1933.

Attest my hand and seal of said court this 6th day of May A.D. 1933.

[SEAL] H. I. MULCREVY, *Clerk.*
By H. BRUNNER, *Deputy Clerk.*

U.S.S. EXHIBIT 13

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

CHARLES MONSON, PLAINTIFF, *v.* HELEN LOUISE THOMAS ET AL., DEFENDANTS. NO. 187498. EXTRA SESSION NO. 1

Receiver's report

W. S. Leake, the receiver appointed by the above-entitled court in the above-entitled action, hereby makes his report, as follows:

That he is chargable with the following items:

RECEIPTS

Nov. 14.	Rent	$237.50
15.		182.50
21.		296.00
25.		152.50
		868.50

DISBURSEMENTS

Check No. 1,	Nov. 14.	Mrs. J. W. Bacon, housekeeper, sundries	11.98
3,	14.	Salary	31.64
2,	15.	Janitor	15.90
4,	21.	S. V. Water	11.64
5,	23.	Shell Oil Co., fuel oil	62.00
6,	25.	Court costs as per stipulation	31.00
7,	25.	Premium on bonds, per stipulation	25.00
8,	25.	Mrs. J. W. Bacon, sundries	30.84
9,		Scavenger	10.00
Total			230.00

NOTE.—Gas and electric charges have not been paid, but have been assumed by the defendant.

RECAPITULATION

Balance on hand	$638.50
Receiver's fees, Oct. 27–Nov. 23 (28 days, at $10 per day)	280.00
Balance on hand to be turned over to defendants, as per stipulation, subject to payment of gas and electric services	358.50

W. S. LEAKE, *Receiver.*

It is hereby stipulated that the above account is correct and may be approved, allowed, and settled by the court.

THEODORE L. BRESLAUER,
Attorney for Plaintiff.
GERALD T. HALSEY & F. T. LEO,
Attorneys for Defendant.

November 29, 1927. The account is hereby approved, settled, and allowed.

Dated November 30, 1927.

HAROLD LOUDERBACK,
Judge of the Superior Court.

(Endorsed:) Filed November 30, 1927.
H. I. MULCREVY, *Clerk.*
By H. BRUNNER, *Deputy Clerk.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, State of California, and ex-officio clerk of the superior court in and for said city and county, hereby certify the foregoing to be a full, true, and correct copy of the original receivers report in the above-entitled cause, filed in my office on the 30th day of November A.D. 1927.

Attest my hand and seal of said court this 6th day of May A.D. 1933.

[SEAL] H. I. MULCREVY, *Clerk.*
By H. BRUNNER, *Deputy Clerk.*

U.S.S. EXHIBIT 14

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

A. W. JOHNSON AND GRACE P. JOHNSON, HIS WIFE, PLAINTIFFS, *v.* FRANK P. CRAIG AND HATTIE B. CRAIG, HIS WIFE, DEFENDANTS. NO. 189245. EXTRA SESSION NO. 1

Oath of receiver

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, W. S. Leake, do solemnly swear that I will support the Constitution of the United States and the Constitution of the State of California, and that I will faithfully discharge the duties of receiver in the above-entitled action and obey the orders of the above-entitled court.

W. S. LEAKE.

Subscribed and sworn to before me this 8th day of December 1927.

[SEAL] ETTA LAIDLAW,
Notary Public in and for the City and County of San Francisco, State of California.

My commission expires June 14, 1929.

(Endorsed:) Filed December 8, 1927.

H. I. MULCREVY, *Clerk.*
By E. R. GREEN, *Deputy Clerk.*

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

A. W. JOHNSON AND GRACE P. JOHNSON, HIS WIFE, PLAINTIFFS, *v.* FRANK P. CRAIG AND HATTIE B. CRAIG, HIS WIFE, DEFENDANTS. NO. 189245. DEPARTMENT NO. 11

Order settling and allowing first and final account of receiver and discharging receiver

W. S. Leake, the receiver in the above-entitled matter, heretofore, by order of the above-entitled court, duly given and made herein, duly appointed as such receiver, having heretofore filed herein his first and final report and account as such receiver, together with his application for allowance for receiver's compensation for services rendered and for an allowance with which to pay counsel fees incurred by him, and his petition for discharge as such receiver, and the matter coming on duly and regularly for hearing before this court on this 14th day of January 1928, after having been duly and regularly continued from January 13, 1928; and

It appearing that due notice of the hearing of said applications and of said account and report has been duly given to all persons who have appeared herein in accordance with law and the order of this court; and

It further appearing that said receiver performed services as such during the period commencing December 8, 1927, and ending January 9, 1928, inclusive, being a period of 33 days, and that in connection with such services it was necessary for said receiver to consult and hire attorneys to represent him in performance of his trust; and

It further appearing that judgment in the above-entitled matter was duly entered in the above-entitled matter in favor of the plaintiffs and against the defendants terminating the lease on the 31st day of December 1927; and

It further appearing that the receiver herein has collected the sum of $907.77 total rentals, of which amount the sum of $317.50 was collected by him as rental for the period subsequent to December 31, 1927, the date of termination of said lease aforesaid, leaving a balance of $590.27 collected by said receiver for the account of defendants herein, and that out of said sums said receiver has expended the sum of $246.87 as necessary disbursements for the proper management of said Clinton Court Apartments, being the property involved, leaving a balance in the hands of said receiver for the account of said defendants amounting to the sum of $343.40, plus the sum of $317.50, which he is holding for the account of plaintiffs aforesaid; and

It further appearing that all of the statements, allegations, and accounts contained in said first and final account and report of said receiver are, and each of them is, true and correct and fully sustained by the evidence adduced; and

It further appearing that possession of the premises has been turned over to the plaintiffs herein and that there is no longer any necessity for maintaining a receiver in possession thereof, and that the duties and responsibilities of said receiver terminated on January 9, 1928.

Now, therefore, it is hereby ordered, adjudged, and decreed as follows:

That due and legal notice of the hearing of said report and account of said receiver was given in all respects in accordance with law and the order of this court;

That the application of said receiver for compensation for services rendered for the period commencing December 8, 1927, and ending January 9, 1928, be, and the same is hereby, granted, and the said W. S. Leake, as such receiver, is hereby allowed the sum of $10 per day, or a total of $330, for his services as such receiver for said period;

That application of said receiver for an allowance for attorney's fees incurred by him be, and the same is hereby, granted at the sum of $50, and said receiver be, and he is hereby, allowed said additional sum of $50 with which to pay Messrs. Haswell & Leo for said legal services particularly itemized in said report;

That said receiver collected the sum of $590.27 for the account of defendants, less the sum of $246.87 necessarily expended by him, leaving a balance of $343.40; that said allowance as receiver's compensation hereinbefore mentioned and said allowance for attorney's fees aforesaid and said disbursements as set forth in said account, amounting to the sum of $246.87, be charged to the defendants herein, and that the deficiency of $36.60, being the difference between the amount of said disbursements and said receipts for the account of said defendants, be added to the judgment in favor of the plaintiffs herein and against said defendants;

That the balance of cash on hand as shown by said report, amounting to the sum of $606.90, less the allowance herein authorized for receiver's compensation and attorney's fees, be paid to the plaintiffs herein without any accounting to defendants or without any credit to defendants upon the judgment heretofore rendered herein;

That said W. S. Leake as such receiver, upon payment to plaintiffs herein of said balance, amounting to the sum of $280.90, be, and he is hereby, discharged as such receiver.

Done in open court this 14th day of January 1928.

HAROLD LOUDERBACK,
Judge of Superior Court.

(Endorsed:) Filed January 13, 1928.

H. I. MULCREVY, *Clerk,*
By HENRY BASTEIN, *Deputy Clerk.*

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA, IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

A. W. JOHNSON AND GRACE P. JOHNSON, HIS WIFE, PLAINTIFFS, *v.* FRANK P. CRAIG AND HATTIE B. CRAIG, HIS WIFE, DEFENDANTS. NO. 189245. EXTRA SESSION NO. 1

Order appointing receiver

The motion of the plaintiffs herein for the appointment of a receiver to take charge of the premises described in the complaint on file in this action coming on before this court on the 7th day of December 1927, and it duly appearing that the defendants herein are lessees under a lease dated October 25, 1923, which lease was transferred to the plaintiffs herein on or about the 31st day of January 1927; and

It appearing that the defendants herein have defaulted in the payment of the rental due under said lease and remain in possession of the demised premises, after the expiration of 3 days succeeding the service upon them of a notice directing them to either pay the rent so in default within a period of 3 days after such date of service or to surrender possession of said premises; and

It appearing that this matter is within the exclusive original jurisdiction of this court and that the amount of the monthly rental of said property, in accordance with the terms of said lease, is the sum of $1,000; and

It further appearing that the premises so leased as aforesaid constitute that certain building situate on the southwest corner of Stockton and California Streets, in San Francisco, said premises being known as the "Clinton Court Apartments"; and

It further appearing that upon the 7th day of December 1927 the plaintiffs herein by their verified complaint have commenced an action in unlawful detainer to recover possession of said premises and cancel and forfeit said lease; and

It further appearing that said overdue rental has not been paid to plaintiffs, or either of them, and that the same is still due, owing, and unpaid;

Now, therefore, be it, and it is hereby, ordered that W. S. Leake be, and he is hereby, appointed receiver to take charge of said demised premises and to collect the rents, issues, profits, and income thereof upon his taking the oath required by law and upon giving an undertaking in the amount of $1,000, to the effect that he will faithfully discharge the duties of receiver in the action and obey the orders of the court therein, and upon the plaintiffs furnishing an undertaking, in the amount of $3,000, to the effect that plaintiffs will pay to the defendants all damages they may sustain by reason of the appointment of such receiver and the entry by him upon his duties in case plaintiffs shall have procured such appointment wrongfully, maliciously, or without sufficient cause.

Done in open court this 7th day of December 1927.

HAROLD LOUDERBACK, *Judge.*

(Endorsed:) Filed December 8, 1927.

H. I. MULCREVY, *Clerk,*
By E. R. GREEN, *Deputy Clerk.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, State of California, and ex officio clerk of the superior court in and for said city and county, hereby certify the foregoing to be a full, true, and correct copy of the original oath of receiver, order settling, etc., and order appointing receiver in the above-entitled cause on file in my office on the 6th day of May A.D. 1933.

Attest my hand and seal of said court this 6th day of May A.D. 1933.

[SEAL] H. I. MULCREVY, *Clerk,*
By H. BENNETT, *Deputy Clerk.*

U.S.S. EXHIBIT 15

SAN FRANCISCO, CALIF.,
December 21, 1927.

ESTATE OF HOWARD BRICKELL, DECEASED, TO W. S. LEAKE

For services in appraising estate of Howard Brickell, deceased, $500.

Received of Crocker First Federal Trust Co., the sum of five hundred and $^{00}/_{100}$ dollars ($500.00), in full payment of the above account.

(Sign here) W. S. LEAKE.

December 21, 1927.

Please receipt and return to Crocker First Federal Trust Co., San Francisco, Calif.

OFFICE OF THE COUNTY CLERK
OF THE CITY AND COUNTY OF SAN FRANCISCO.

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, and ex officio clerk of the superior court thereof, do hereby certify the foregoing to be a full, true, and correct copy of the voucher no. 75 in the matter of the estate of Howard Brickell, deceased, now on file and of record in my office.

Witness my hand and seal of said court this 2d day of May, A.D. 1933.

[SEAL] H. I. MULCREVY, *County Clerk.*
By S. I. HUGHES, *Deputy County Clerk.*

U.S.S. EXHIBIT 16

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA IN AND FOR THE CITY AND COUNTY OF SAN FRANCISCO

EDWARD DRELLER, PLAINTIFF, *v.* SIGMUND J. JANUS, BERNARD T. TOUHEY, CRYSTAL LAUNDRY CO., A CORPORATION; UNITED SERVICE CORPORATION, A CORPORATION; J. N. KELLEY, R. J. DONOHUE, FIRST DOE, SECOND DOE, THIRD DOE, AND FOURTH DOE, DEFENDANTS. NO. —, DEPT. —

Order appointing receiver

The plaintiff in the above-entitled action having commenced an action in the superior court of the State of California, in and for the city and county of San Francisco, against the above-named defendants, praying that a receiver be appointed to take charge of the property, as more particularly set forth in those certain acts in the complaint mentioned, to which reference is hereby made;

Now, on reading and filing the complaint in such action, duly verified by the oath of the said plaintiff, and it satisfactorily appearing to me that it is a proper case for the appointment of a receiver;

It is ordered that W. S. Leake be, and he is hereby, appointed a receiver to take charge of the business now being conducted by the defendant, Crystal Laundry Co., a corporation, in the city and county of San Francisco, and to conduct said business and to preserve the assets thereof, until the further order of this court; and this court having required upon the making of said application, that the plaintiff execute to the defendants a bond in the sum of $5,000, and the bond having been duly given by the plaintiff as required by law, and approved by me and filed in this action;

It is further ordered that said receiver, before entering upon the discharge of his duties, give a bond, as required by law, in the sum of $500.

Done in open court this 30th day of December 1927.

HAROLD LOUDERBACK,
Judge of the Superior Court.

(Endorsed:) Filed December 31, 1927.

H. I. MULCREVY, *Clerk.*
By E. R. GREEN, *Deputy Clerk.*

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, State of California, and ex officio clerk of the superior court, in and for said city and county, hereby certify the foregoing to be a full, true, and correct copy of the original order appointing receiver in the above-entitled cause, filed in my office on the 31st day of December A.D. 1927.

Attest my hand and seal of said court this 6th day of May A.D. 1933.

H. I. MULCREVY, *Clerk.*
[SEAL] By H. BRUNNER, *Deputy Clerk.*

U.S.S. EXHIBIT 17

SAN FRANCISCO, CALIF.,
December 21, 1927.

ESTATE OF HOWARD BRICKELL, DECEASED, TO G. H. GILBERT

For services as appraiser of estate of Howard Brickell, deceased $500

Received of Crocker First Federal Trust Co. the sum of $500 in full payment of the above account.

G. H. GILBERT.

December 21, 1927.

Please receipt and return to Crocker First Federal Trust Co., San Francisco, Calif.

OFFICE OF THE COUNTY CLERK OF THE CITY AND COUNTY OF SAN FRANCISCO

I, H. I. Mulcrevy, county clerk of the city and county of San Francisco, and ex officio clerk of the superior court thereof, do hereby certify the foregoing to be a full, true, and correct copy of the voucher no. 76, in the matter of the estate of Howard Brickell, deceased, now on file and of record in my office.

Witness my hand and the seal of said court this 2d day of May A.D. 1933.

[SEAL] H. I. MULCREVY, *County Clerk.*
By S. I. HUGHES, *Deputy County Clerk.*

U.S.S. EXHIBIT 18

IN THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

WAUKESHA MOTOR CO. (A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN), COMPLAINANT, *v.* FAGEOL MOTORS CO. (A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF CALIFORNIA) AND FAGEOL MOTORS SALES CO. (A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF CALIFORNIA), DEFENDANTS. IN EQUITY NO. 3191

Bill of complaint

To the Honorable the District Court of the United States for the Northern District of California, Southern Division:

Waukesha Motor Co., a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin and a citizen of that State, brings this, its bill of complaint, on its behalf and on behalf of all other creditors of Fageol Motors Co., a corporation organized and existing under and by virtue of the laws of the State of California, and Fageol Motors Sales Co., a corporation organized and existing under and by virtue of the laws of the State of California, and citizens of said State, and thereupon your orator alleges as follows:

First. That your orator is a corporation duly organized and existing under and by virtue of the laws of the State of Wisconsin and a citizen of said State.

Second. That each of the defendants is a corporation duly organized and existing under and by virtue of the laws of the State of California, and that each of them is a citizen of the State of California; each of said defendants having its principal place of business within the northern district of the State of California.

Third. That the defendant, Fageol Motors Co., a corporation, is engaged in the business of manufacturing and selling motor trucks and busses and parts therefor, and the defendant Fageol Motors Sales Co., a corporation, is engaged in the business of selling and distributing motor trucks and busses.

Fourth. That Fageol Motors Sales Co., a corporation, had at all times herein mentioned and now has an authorized capital stock of $10,000, divided into 100 shares of the par value of $100 each; that all of said shares are now issued and outstanding; that all of the stock of said Fageol Motors Sales Co. is owned and held by the defendant Fageol Motors Co.; that 997 shares thereof stand in the name of Fageol Motors Co.; that the remaining 3 shares stand in the name of 3 qualifying directors, but the beneficial right, title, and interest therein and thereto is vested in the defendant Fageol Motors Co.; that the said Fageol Motors Sales Co. is a wholly owned subsidiary of Fageol Motors Co. and is used and operated as an agency for the transaction of a certain branch of the business of Fageol Motors Co., to wit, the sale and distribution of certain trucks and busses.

That the defendant Fageol Motors Co. has transferred, loaned, and advanced to the defendant Fageol Motors Sales Co. from time to time large sums of money and other assets indiscriminately and without adequate security or protection as if the said two corporations were in fact one; that defendant Fageol Motors Co. has continuously, since the formation and organization of the defendant Fageol Motors Sales Co., issued and published a consolidated balance sheet, in which all of the assets and liabilities of both the defendant corporations were mingled together indiscriminately without segregation or classification as to ownership, and with recognition of and showing identity of interest and liability.

That the corporate entity of defendant Fageol Motors Sales Co. should be disregarded and the assets and liabilities of said Fageol Motors Sales Co. should be deemed and considered the assets and liabilities of defendant Fageol Motors Co.

Fifth. That the assets of the defendants consist of cash in bank, notes and trade acceptances receivable, accounts receivable, inventories of parts and raw materials and new and used trucks and busses, real estate and buildings, machinery, and fixtures of an aggregate value of upward of $2,000,000 if liquidated in the usual and ordinary course of the company's business.

Sixth. That within 2 years last passed defendants became indebted to your orator upon an open book account for goods, wares, and merchandise to the reasonable value of $22,734.49, sold and delivered by your orator to the defendants at defendants' special instance and request; that no part of said sum has been paid; that in addition thereto the defendants are indebted to your orator in the sum of $15,000 principal and $300 interest upon a promissory note executed and delivered to your orator by the defendant, Fageol Motors Co., dated October 19, 1931, bearing interest at the rate of 6 percent per annum, maturing on January 12, 1932; that no part of said principal or interest has been paid; that, furthermore, defendants are indebted to your orator upon a promissory note executed by the defendant, Fageol Motors Co., maturing on the 4th day of March 1932 in the principal sum of $54,459.77; that no part of said sum has been paid; that demand has been made by your orator of defendants for the payment of the first two sums hereinabove referred to, but payment thereof has been refused.

Seventh. That the defendants are indebted to your orator and other creditors for moneys borrowed and for merchandise purchased and delivered to them in a sum in excess of the sum of $935,000, of which said amount the sum of $375,000 is secured by a certain contract dated October 31, 1925, between the defendant Fageol Motors Co. and The Fageol Motors Co., a corporation, of Ohio; that the said $375,000 is evidenced by the 6½ percent sinking fund debenture bonds of the defendant Fageol Motors Co. dated February 1, 1928; that in addition to the foregoing indebtedness the said defendants have a contingent liability, the exact amount of which is unknown to your orator, upon conditional sale contracts covering the sale on the installment plan of trucks and busses, which contracts are unconditionally guaranteed by the said defendants, and have heretofore been sold, discounted, and/or hypothecated with banks and finance companies.

Eighth. That the defendants are at the present time without funds sufficient to meet their present obligations or their obligations due or shortly to mature, although if the assets of the companies can be liquidated in the usual and ordinary course of the defendants' business, and under proper management, their assets will be more than sufficient to cover all of their lawful obligations.

Ninth. That certain of the creditors of the defendants are pressing their claims for payment; that one of them has instituted suit against the defendants for a claim upward of $40,000, which

said creditor has levied an attachment against the real estate and plant of the defendants located in the city of Oakland, county of Alameda, State of California; that other creditors have threatened to and will, unless otherwise restrained by this honorable court, file actions and levy attachments against the property and assets of the defendants; that any such further actions on the part of creditors will, as your orator believes, result in judgments, attachments, executions, and seizures by sheriffs and other like officers and forced sales of the property and assets of the defendants at less than the fair value thereof; and that, as a necessary consequence thereof, defendants will be compelled to cease the conduct of said business and their assets will be dissipated and sacrificed and there may not be realized an amount sufficient to pay the creditors of defendants in full, and that such action on the part of such creditors will cause great and irreparable loss and injury to the defendants and their creditors, including your orator.

Tenth. That the defendants are possessed of a large and varied stock of new and used trucks and busses, both completed and uncompleted, raw materials, and machinery, located at its factory in the city of Oakland, county of Alameda, State of California, and elsewhere; that this large stock of merchandise, parts, and materials if forced onto sale in bulk will necessarily be sacrificed for a small portion of its real value; and that a forced sale of the real property, plant, and equipment of the defendants would bring only a small fraction of the real value thereof, whereas if the business can be continued free from interruption and seizure under judgments, the said stock of merchandise, parts, and raw materials can be liquidated at its fair market value and the defendants enabled to discharge their obligations.

Eleventh. That if the defendants' assets are not taken into judicial custody, actions at law will be instituted by some of the creditors who are pressing for payment of their claims, and through such actions such creditors will obtain judgments and executions, and inequitable preference as against your orator and other creditors of the defendants will result. Likewise, unless the assets of the defendants are administered by a court of equity and all actions and proceedings of law, including executions, attachments, and other proceedings enjoined, your orator feels that the defendants will be subjected to a multiplicity of suits, which will result in an interruption of their business and a consequent serious dissipation of their assets.

Twelfth. That in order that the property of the defendants may be preserved for equitable distribution among those entitled thereto, your orator believes that this honorable court should intervene and appoint a receiver to take charge of all of the assets of the defendants, who shall conduct, manage, and administer the same under the power to be conferred upon him in the proposed decree herewith submitted.

Thirteenth. Your orator shows that the amount of the controversy in this action is in excess of $3,000, exclusive of interest and costs.

Fourteenth. That your orator has no plain, speedy, adequate, or any remedy in the ordinary course of law.

Inasmuch, therefore, as your orator has no plain, speedy, adequate, or any remedy at law, and can have relief only in equity, your orator files this bill of complaint on behalf of itself and other creditors of the defendant who may thereafter join herein and prays for equitable relief as follows:

1. That this honorable court will administer all the properties, assets and effects, rights, and business belonging to the defendant, and will adjudicate, enforce, adjust, and determine the rights, equities, and claims of all the creditors of the defendants, including the claim of your orator.

2. That this honorable court will forthwith appoint a receiver or receivers of all and singular the property of the defendants, of whatsoever nature, with full power to take into their possession, hold, and manage the same under the direction of this court, with such powers as this court may from time to time grant; to continue the business in his or their discretion; to bring suit for, collect, receive, and take into their possession all the property and assets of defendant, including books, records, vouchers, checks, moneys, real estate, and all other property, real, personal, and mixed; to institute, prosecute, become parties to, intervene in, compromise, or defend any actions at law or in equity or under any statute for the recovery, protection, and maintenance of any of the assets or properties of defendant as they may deem necessary or proper, including the institution and prosecution of any such ancilliary proceedings as they may deem advisable; to settle, collect, compound, adjust, or make allowance upon any debts that may be due or owing to the defendant as they may deem proper; to pay any such claims or wages, or otherwise, as may have priority; and, in general, with all the usual powers of receivers in such cases.

3. That the officers, managers, employees, creditors, and stockholders of the defendant, and all other persons, firms, and corporations be required forthwith to transfer, convey, and deliver up to such receiver or receivers possession of all property of the defendant wheresoever situate.

4. That all persons, firms, and corporations be enjoined from instituting, commencing, prosecuting, or continuing the prosecution of any actions, suits, or proceedings at law or in equity or under any statute against defendant, or from levying or serving any attachments or executions or other processes upon the defendant or upon or against any of the property of the said defendant, save and except the filing of mechanic's or other statutory liens, and generally that all persons, firms, and corporations be enjoined from doing any act to interfere with said receivers in their possession of the property of defendant.

5. That a writ of injunction issue out of and under the seal of this honorable court or issue by one of your honors directing, enjoining, and restraining defendant and its officers, directors, agents, and employees and all other persons whatsoever from interfering with, transferring, selling, or disposing of any of the property of said defendant.

6. That this honorable court will grant a writ of subpena under the seal of this honorable court, directed to defendant and commanding it on a date certain therein named, before this honorable court, to answer (but not under oath, answer by oath being expressly waived) all and any of premises and to stand by, perform, and abide by such orders and decrees as may be made by this honorable court.

7. That a decree appointing a receiver or receivers of the property of the defendant and granting the relief prayed for in this bill of complaint may be granted by this honorable court in the form herewith submitted.

8. That at such time as may be found just and proper the properties of the defendant may be ordered to be sold, in whole or in part, for cash or on credit, in such manner and upon such conditions as this court may deem just and equitable, and that any such decree of sale shall make proper and equitable provision for the preservation of all equities, rights, properties, claims, and liens of all creditors and shall provide for the sale of the property of the defendant subject to or free of liens and encumbrances, in whole or in part, as this court may direct, and that the proceeds of any such sale be distributed among those entitled thereto, as this honorable court shall adjudicate, or that the properties of the defendant, in whole or in part, may be returned to it; and that your orator may have such other and further relief in the premises as may be just and equitable, and that the defendant may be directed to make such bills of sale, assignments, transfers, and conveyances of any such property as may be directed to be sold by this court.

9. That such order shall be made by this honorable court, as to the service of this bill of complaint and of any order that may be made in this suit as may be deemed sufficient and proper by this court.

10. That your orator may have such other and further relief as may be just and proper.

And your orator will ever pray.

WAUKESHA MOTOR CO.,
Complainant.

By H. J. FRAME,
General Attorney.
L. R. WEINMANN,
WILLIAM E. LICKING,
Solicitors for Complainant.

STATE OF CALIFORNIA,
City and County of San Francisco, ss:

William E. Licking, being first duly sworn, deposes and says: That he is an attorney at law duly admitted and licensed to practice in all the courts of the State of California; that he is one of the attorneys for the complainant in the above-entitled action; that all of the officers of said complainant are out of the county of Alameda, State of California, the place where affiant has and maintains his offices as such attorney; that for this reason affiant makes this verification for and on behalf of said complainant; that he has read the foregoing bill of complaint and knows the contents thereof; that the same is true of his own knowledge except as to those matters therein stated on information and belief and as to those matters he believes it to be true.

WILLIAM E. LICKING.

Subscribed and sworn to before me this 15th day of February A.D. 1932.

ETTA LAIDLAW,
Notary Public in and for the City and County of San Francisco, State of California.

U.S.S. EXHIBIT 19

IN THE UNITED STATES DISTRICT COURT IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

WAUKESHA MOTOR CO. (A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN), COMPLAINANT, *v.* FAGEOL MOTORS CO. (A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF CALIFORNIA) AND FAGEOL MOTORS SALES CO. (A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF CALIFORNIA), DEFENDANTS. IN EQUITY NO. 3191

Answer to bill of complaint

To the Honorable District Court of the United States in and for the Northern District of California, Southern Division:

Now come the above-named defendants by Bronson, Bronson & Slaven, as attorneys, and for answer to the bill of complaint herein, or so much thereof as defendant is advised that it is necessary or material for it to answer, says:

First. The allegations and each of them contained in the said bill of complaint are true.

Second. The defendants consent to the relief prayed for in the bill of complaint.

Wherefore the defendants pray that the relief prayed for in the bill of complaint be granted.

Dated this 17th day of February 1932.

BRONSON, BRONSON & SLAVEN,
Solicitors for Defendants,
Mills Tower, 220 Bush Street, San Francisco, Calif.

U.S.S. EXHIBIT 20

IN THE UNITED STATES DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

WAUKESHA MOTOR CO. (A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF WISCONSIN), COMPLAINANT, *v.* FAGEOL MOTORS CO. (A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF CALIFORNIA) AND FAGEOL MOTORS SALES CO. (A CORPORATION ORGANIZED AND EXISTING UNDER AND BY VIRTUE OF THE LAWS OF THE STATE OF CALIFORNIA), DEFENDANTS. IN EQUITY 3191

Order appointing receiver

And now on this 15th day of February 1932 this cause came on to be heard upon the bill of complaint duly filed herein and the answer of the defendants hereto this day likewise filed, and upon a motion of the complainant for the appointment of a receiver, and after hearing, William E. Licking, representing the complainant, and after due deliberation, it is adjudged that the complainant, upon the facts contained in the said bill and upon said answer, is entitled to the relief hereby granted; and it is

On motion of William E. Licking, solicitor for the complainant,

Ordered, adjudged, and decreed as follows: That G. H. Gilbert be, and he is hereby, appointed temporary receiver of the above-named defendants and all the property, assets, and effects of said defendants or in which the said defendants have any ownership or interest, whether such property be real, personal, and/or mixed, and of whatsoever kind and description and wheresoever situate and of all office furniture, fixtures, books of account, records, and other books, papers and accounts, cash on hand or in bank or on deposit, things in action, credits, stocks, bonds, securities, shares of stock, notes or bills receivable, muniments of title, as well as all other property of every character and description whatsoever of the defendants; and it is further

Ordered, adjudged, and decreed that the said receiver be, and he is hereby, authorized forthwith to take possession and control and custody of all said property, assets, and effects of said defendants; that said receiver is authorized to do all and any things and enter into all or any agreements as may be deemed by him necessary or advisable to preserve and protect the said property or assets; in his discretion to employ and discharge and to fix the compensation of such officers, agents, and employees as may, in his judgment, be necessary or advisable in the administration of this estate; and to make such payments and disbursements as may be needful or proper in the preservation of the assets of the defendants.

Said receiver is further authorized and empowered to institute, prosecute, defend, compromise, adjust, intervene in or become party to such suits, actions, or proceedings at law or in equity, including ancillary proceedings in State or Federal courts, as may in his judgment be necessary or proper for the protection and preservation of the assets of the defendants or the carrying out of the terms of this decree; and likewise to defend, compromise, or adjust, or otherwise dispose of all or any suits, actions, or proceedings now pending in any court by or against the said defendants where such prosecution, compromise, defense, or other disposition of such suit or action will in the judgment of said receiver be advisable or proper for the protection of the assets of the above-named defendants, and such receiver is authorized to settle with, compromise, collect from, or make allowance to debtors of the above-named defendants; to enter into such arrangements, compositions, extension, or otherwise with debtors of the defendants as the said receiver may deem advisable; and generally said receiver is authorized to do all acts, enter into any agreements, and accept, adopt, or abandon any or all contracts as may be deemed by such receiver advisable for the protection or preservation of the assets of the above-named defendants; and it is further

Ordered that the bond of the receiver in the sum of $50,000, conditioned that he will well and truly perform the duties of his office and duly account for all moneys and property which come into his hands and abide by and perform all things which he shall be directed to do, with sufficient sureties to be approved by a judge of this court, be filed with the clerk of this court within 2 days from the date of this order; and it is further

Ordered, adjudged, and decreed that said defendants, their officers and directors, agents, and employees, and all other persons claiming to act by, through, or under, or for said defendants and all other persons, firms, and corporations, including creditors of the defendants, and including all sheriffs, marshals, constables, and their agents and deputies, and all other officers are hereby enjoined from transferring, removing, disposing of or attempting in any way to remove, transfer, or dispose of or in any way interfere with any of the properties owned by or in the possession of said defendants, and all said persons, firms, and corporations are enjoined from doing any act whatsoever to interfere with the possession and management by said receiver of the properties of the defendants, or in any way to interfere with said receiver in the discharge of his duties, or to interfere in any way with the administration and disposition in this suit of the affairs and properties of the defendants, and all creditors of the said defendants are hereby enjoined from instituting or prosecuting or continuing the prosecution of any pending actions, suits, or proceedings at law or in equity, or under any statute, against the said defendants, and from levying any attachments, executions, or other processes upon or against any of the properties of the said defendants, or from taking or attempting to take into their possession any of the properties of the said defendants, and from issuing or causing the execution or issuance out of any court of any writ, process, summons, subpena, replevin, or attachment; and it is further

Decreed that the receiver be, and he hereby is, directed within 30 days from the date of this decree to cause to be mailed to each and every creditor of the defendants known to such receiver a copy of this order and a notice of a motion to make the receivership herein permanent, such mailing to be in a securely sealed envelope, postage prepaid, and to be addressed to said creditor at the last post-office address known to the said receiver, and such service by mail is hereby decreed to be due, timely, sufficient, and complete service of notice of this decree and this suit and of such notice and all proceedings had or to be had herein and upon all such creditors for all purposes; and it is further

Decreed that all such creditors of the defendants be, and they hereby are, directed to file with the receiver or any permanent receiver, at such office or place of business as said receiver may designate at, within 90 days from the date of this order, a duly sworn statement of all or any such claims as they, such creditors, may have or assert against the defendants, and such statement shall be verified before any officer authorized to administer oaths by the laws of the State where said claim is verified, and such statements of claims shall, where the same is evidenced by any written instrument, have such written instrument attached thereto; and it is further

Decreed that notice of the time and place for the filing of the said claim shall be published at least four times before the expiration of said period of 90 days in the Inter-City Express, a newspaper of general circulation published in the city of Oakland, county of Alameda, State of California; and it is further

Decreed that all such creditors as shall fail to file their claims with said receiver, as herein provided and within the time fixed, shall be debarred from any share of, in, or to the properties of the said defendants, and shall not be entitled to receive any share thereof or of the proceeds thereof; and it is further

Decreed that the receiver shall have leave to apply for such other or further orders as may to him from time to time seem advisable or necessary in the administration of this fund.

HAROLD LOUDERBACK,
Judge of the United States District Court.

FEBRUARY 15, 1932.

U.S.S. EXHIBIT 21

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

WAUKESHA MOTOR CO., A CORPORATION, PLAINTIFF, *v.* FAGEOL MOTORS CO., A CORPORATION, AND FAGEOL MOTOR SALES CO., A CORPORATION, DEFENDANTS. NO. 3191–L IN EQUITY

Order approving bond of receiver

This day came G. H. Gilbert, having been heretofore appointed receiver herein, and accepted said appointment, and was duly sworn, and also presented his bond in the sum of $50,000 with the National Surety Co., as surety, which is hereby approved, and ordered filed. Said receiver is therefore found to be duly qualified.

Dated February 17, 1932.

HAROLD LOUDERBACK,
District Judge.

U.S.S. EXHIBIT 22

[Central National Bank of Oakland, capital, surplus, and undivided profits $3,500,000]

OAKLAND, CALIF., *May 4, 1932.*

MR. JOHN WALTON DINKELSPIEL,
Attorney at Law, San Francisco, Calif.

DEAR SIR: In view of the recent publicity in connection with the Fageol Motors Co. receivership, I feel it is only fair that you receive this expression of our feelings as to the attitude of your office and Mr. G. H. Gilbert thus far in this receivership.

You both have shown a desire to cooperate, and have cooperated, with the creditors to the fullest extent, and I feel that as a result of this mutual cooperation a businesslike administration will obtain.

Yours truly,

JAS. A. WAINWRIGHT.

U.S.S. EXHIBIT 23

JULY 28, 1932.

G. H. GILBERT, ESQ.,
Fageol Motors Co., Oakland, Calif.

DEAR SIR: It is my pleasure at this time to acknowledge my appreciation for the cooperation extended me as a representative of this bank in the matter of the Fageol receivership.

You at all times were willing and did listen to and heed the advice and counsel of the writer and other representatives of the large creditors.

I wish you success in any future undertaking, and trust that, though your connection with the Fageol Co. is at an end, I may have the pleasure of seeing you in the future whenever you have occasion to be in Oakland.

With my kindest well wishes, I am, yours sincerely,

JAS. A. WAINWRIGHT.

U.S.S. EXHIBIT 24

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SECOND DIVISION

IN THE MATTER OF STEMPEL & COOLEY, A COPARTNERSHIP CONSISTING OF EDNA B. STEMPEL, RAY J. STEMPEL, BESSIE COOLEY, AND AARON COOLEY, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF STEMPEL & COOLEY, ALLEGED BANKRUPTS. NO. 17807–L IN BANKRUPTCY

Order appointing receiver

Upon the petition of A. G. Isaacs verified this 23d day of January 1929, and the petition of bankruptcy filed herein against the above alleged bankrupts in the office of the clerk of this court on the 17th day of January 1929, and upon the bond of the petitioning creditor duly filed and approved herewith, and it appearing that a subpena has been duly issued against said alleged bankrupts as required by law, and the appointment of a receiver is absolutely necessary for the preservation of this estate, now on motion of Jefferson E. Peyser, Esq., attorney for the petitioning creditors herein:

It is ordered that G. H. Gilbert be, and he hereby is, appointed receiver of the property, assets, and effects of the above-named alleged bankrupts with all the usual rights and powers thereof until the further order of this court in the premises; and it is further

Ordered that the said receiver give a bond to the people of the United States in the sum of $5,000, conditioned for the faithful discharge of his duties as such receiver prior to entering upon his duties hereunder; and it is further

Ordered, that said alleged bankrupts forthwith deliver to said receiver all of their property, assets, and effects now in their possession or under their control, and the said alleged bankrupts and all other persons, firms, corporations, all creditors of the said alleged bankrupts, as well as their and each of their attorneys, agents, and servants, and all sheriffs, marshals, and other officers, deputies and their employees are hereby jointly and severally restrained and enjoined from removing, transferring, or otherwise interfering with the property, assets, and effects of the above-named alleged bankrupts and from prosecuting, executing, or suing out of any court any process, attachment, replevin, or other writ for the purpose of taking possession, impounding, or interfering with any property, assets, or effects of the above-named alleged bankrupts and from molesting, disturbing, or interfering with the receiver herein appointed in the discharge of his duties.

Dated January 25, 1929.

HAROLD LOUDERBACK, *Judge.*

U.S.S. EXHIBIT 25

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SECOND DIVISION

IN THE MATTER OF STEMPEL & COOLEY, A COPARTNERSHIP CONSISTING OF EDNA B. STEMPEL, RAY J. STEMPEL, BESSIE COOLEY, AND AARON COOLEY, DOING BUSINESS UNDER THE FIRM NAME AND STYLE OF STEMPEL & COOLEY, ALLEGED BANKRUPTS. NO. 17807–L IN BANKRUPTCY

Order authorizing employment of counsel by receiver

Upon reading and filing the petition of G. H. Gilbert, receiver in the above-entitled matter, dated this day, and good cause appearing therefor, it is hereby

Ordered that the said receiver may employ legal counsel in connection with his duties as such receiver, and that the firm of Keyes & Erskine, attorneys at law, may be employed by said receiver as his counsel, and the selection by said receiver and appointment herein is hereby confirmed.

Dated January 28, 1929.

HAROLD LOUDERBACK,
Judge of the United States District Court.

U.S.S. EXHIBIT 26

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SECOND DIVISION

IN THE MATTER OF SONORA PHONOGRAPH CO., INC., A CORPORATION, ALLEGED BANKRUPT. NO. 18804–L IN BANKRUPTCY

Order appointing ancillary receivers

Upon the petition of Arrow-Hart Electric Co., a corporation, Harvey Hubbell, Inc., a corporation, and Gavitt Manufacturing Co., a corporation, verified the 18th day of December 1929 praying for the appointment of ancillary receivers in bankruptcy in this jurisdiction, and it appearing that an involuntary petition in bankruptcy was filed on the 18th day of December 1929 and is now pending in the District Court of the United States for the Southern District of New York against the above-named bankrupt, and that the Irving Trust Co., a corporation, has been appointed receiver, duly qualified, and is now acting as such receiver; that the said alleged bankrupt owns and possesses certain property consisting of goods, wares, and merchandise and fixtures in this State and district; that it is absolutely necessary for the preservation of this property and in aid of the receiver heretofore appointed in said Southern District of New York, that ancillary receivers be appointed herein, now, upon motion of Martin J. Dinkelspiel, of the firm of Dinkelspiel & Dinkelspiel, attorneys for said petitioners.

It is ordered that the prayer of said petition be, and hereby is, granted, and Irving Trust Co., a corporation, and G. H. Gilbert be, and they are hereby, appointed ancillary receivers of the above-named bankrupt in and for this district, with all the rights and powers to carry into force and effect the orders of the original court of jurisdiction; and it is further

Ordered that said receiver, G. H. Gilbert, furnish a bond in the sum of $75,000 for the faithful discharge of his duties as such receiver; and it is further

Ordered that said alleged bankrupt forthwith deliver to said receivers all of its property, assets, and effects now in its possession or under its control, and that said alleged bankrupt, and all other persons, firms, corporations, and creditors of said alleged bankrupt, as well as their and each of their attorneys, agents, and servants, and all sheriffs, marshals, and other officers, deputies, and their employees are hereby jointly and severally restrained and enjoined from removing, transferring, or otherwise interfering with the property, assets, and effects of the above-named alleged bankrupt; and from prosecuting, executing, or suing out of any court any process, attachment, replevin, or other writ for the purpose of taking possession, impounding, or interfering with any property, assets, or effects of the above-named alleged bankrupt; and from molesting, disturbing, or interfering with the ancillary receivers herein appointed in the discharge of their duties.

Dated December 20, 1929.

HAROLD LOUDERBACK,
District Judge.

U.S.S. EXHIBIT 27

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SECOND DIVISION

IN THE MATTER OF SONORA PHONOGRAPH CO., INC., A CORPORATION, ALLEGED BANKRUPT. NO. 18804–L

Order authorizing ancillary receiver to employ counsel

The ancillary receiver herein, Guy H. Gilbert, having filed his petition for authority to employ counsel at the expense of said estate; and

It appearing satisfactory therefrom for the reasons shown therein that it is necessary for said ancillary receiver to employ counsel, and the names of the counsel proposed to be employed by this ancillary receiver being shown in said petition and the affidavit of the proposed counsel being filed herewith:

It is ordered that said ancillary receiver, Guy H. Gilbert, be, and he is hereby, authorized to employ Messrs. Dinkelspiel & Dinkelspiel, attorneys at law, of the city and county of San Francisco, State of California, as counsel at the expense of said estate to represent him in the matters mentioned in said petition, said authority to be effective as of the date of the appointment of the ancillary receiver herein.

Dated December 20, 1929.

HAROLD LOUDERBACK,
District Judge.

U.S.S. EXHIBIT 28

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SECOND DIVISION

IN THE MATTER OF SONORA PHONOGRAPH CO., INC., A CORPORATION, ALLEGED BANKRUPT. NO. 18804–L IN BANKRUPTCY

Order approving first report and account of ancillary receiver

The report and account of G. H. Gilbert, ancillary receiver herein, having been duly filed and coming on for hearing before this court on the 21st day of February 1930; and

It appearing that no creditors of said alleged bankrupt are present or exist within this district, and good cause appearing therefor,

It is hereby ordered, adjudged, and decreed and this court does hereby order, adjudge, and decree that the said first report and account of said G. H. Gilbert, ancillary receiver herein, be, and the same is hereby, approved, and that the petition of said ancillary receiver for compensation and reimbursement of expenses incurred in the administration of the said estate be, and the same is hereby, granted.

Dated February 24, 1930.

HAROLD LOUDERBACK,
United States District Judge.

U.S.S. EXHIBIT 29

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SECOND DIVISION

IN THE MATTER OF SONORA PHONOGRAPH CO., INC., ALLEGED BANKRUPT. NO. 18804–L IN BANKRUPTCY

Order allowing compensation on account to attorneys for ancillary receiver

Upon reading and filing the petition of Dinkelspiel & Dinkelspiel, attorneys for the ancillary receiver herein, heretofore filed, and it appearing that notice of the hearing of said petition has been duly and properly served in accordance with the order heretofore made by this court on the 29th day of April 1930 and good cause appearing:

It is hereby ordered, adjudged, and decreed, and this court does hereby order, adjudge, and decree, that said firm of attorneys as attorneys for said ancillary receiver do receive the sum

of $15,000 on account as and for services rendered to said ancillary receiver and that said G. H. Gilbert, said ancillary receiver be and he is hereby authorized to compensate said attorneys on account in the aforesaid sum and to reimburse said attorneys for those certain expenses incurred by said attorneys for and on behalf of said ancillary receiver and said estate, as appears more specifically in exhibit B of the petition of said attorneys on file herein.

Done in open court this 17th day of May 1930.

HAROLD LOUDERBACK,
United States District Judge.

U.S.S. EXHIBIT 30

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN THE MATTER OF SONORA PHONOGRAPH CO., INC., ALLEGED BANKRUPT NO. 18804–L IN BANKRUPTCY

Order approving second report and account of ancillary receiver

The second report and account of G. H. Gilbert, ancillary receiver herein, having been duly filed and coming on for hearing before this court on the 10th day of May 1930; and

It appearing that notice of the hearing of said petition having been duly given in accordance with the order of this court made and entered on the 29th day of April 1930, and good cause appearing therefor, it is hereby

Ordered, adjudged, and decreed, and this court does hereby order, adjudge, and decree, that the second report and account of G. H. Gilbert as ancillary receiver be, and the same is hereby, approved, and that said G. H. Gilbert as ancillary receiver do receive the sum of $2,502.83 as and for commissions on account for services rendered and the sum of $60 for expenses incurred by said ancillary receiver and heretofore advanced by said ancillary receiver for and on behalf of said estate.

Dated May 12, 1930.

HAROLD LOUDERBACK,
District Judge.

U.S.S. EXHIBIT 31

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA, SECOND DIVISION

IN THE MATTER OF SONORA PHONOGRAPH CO., INC., A CORPORATION, BANKRUPT. NO. 18804–L IN BANKRUPTCY

Order allowing third and final account of ancillary receiver and order allowing final compensation to attorneys for ancillary receiver

The third and final report and account of G. H. Gilbert, the ancillary receiver of the Sonora Phonograph Co., Inc., a corporation, having been duly filed, and the petition for final compensation for services rendered to said ancillary receiver of Messrs. Dinkelspiel & Dinkelspiel, the attorneys for said ancillary receiver having been duly filed, and due notice thereon having been made in accordance with an order of this court made on the 23d day of June 1930 and the said report and petition having duly come on for hearing before this court on the 26th day of July 1930 and being continued by this court until the 28th day of July 1930, and Messrs. McCutchen, Olney, Mannon & Greene appearing at said hearing for and on behalf of the Irving Trust Co., the duly appointed, qualified, and acting trustee in bankruptcy of said Sonora Phonograph Co., Inc., and on behalf of said creditors committee, and Messrs. Dinkelspiel & Dinkelspiel appearing as attorneys for said ancillary receiver, and in propria persona for the petition for compensation for legal services rendered to said ancillary receiver, and both oral and written evidence having been introduced and heard by this court; and whereas a supplemental report to said third and final account of said ancillary receiver and a supplemental report of said attorneys for said ancillary receiver having been duly filed and a hearing thereon being had as aforesaid, and good cause appearing,

It is hereby ordered, adjudged, and decreed, and this court does hereby order, adjudge, and decree, that the third and final report and account of G. H. Gilbert, ancillary receiver herein be, and the same is hereby, approved as filed; and

It is further ordered, adjudged, and decreed, and this court does hereby order, adjudge, and decree, that the sum of $5,000 is a reasonable and proper and final allowance to be made to Messrs. Dinkelspiel & Dinkelspiel as and for compensation for legal services rendered to said G. H. Gilbert, ancillary receiver herein; and

It is further ordered, adjudged, and decreed, and this court does hereby order, adjudge, and decree, that said G. H. Gilbert be, and he is hereby, allowed and authorized to make the following disbursements in accordance with the foregoing order, to wit:

G. H. Gilbert, final compensation as ancillary receiver	$2,855.64
Lybrand Ross Bros. & Montgomery, certified public accountants	100.00
Russell L. Wolden, assessor of the city and county of San Francisco	705.11
G. H. Gilbert	17.40
F. R. Rogers	20.00
G. K. Brown (Western Union Telegraph Co.)	15.55
San Francisco Water Co	5.31
Dinkelspiel & Dinkelspiel, final allowance for attorneys' fees	5,000.00
Dinkelspiel & Dinkelspiel, expenses	194.38

It is further ordered, adjudged, and decreed that upon the distribution by G. H. Gilbert of the amounts as above set forth, that the balance of all moneys and assets remaining in the possession of said G. H. Gilbert be remitted, turned over, and delivered to the Irving Trust Co. as trustee in bankruptcy of said Sonora Phonograph Co., Inc.

Dated July 30, 1930.

HAROLD LOUDERBACK,
United States District Judge.

U.S.S. EXHIBIT 32

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

CHARACTER FINANCE CO. OF SANTA MONICA, A CALIFORNIA CORPORATION, PLAINTIFF, *v.* PRUDENTIAL HOLDING CO. OF LOS ANGELES, A NEVADA CORPORATION, DEFENDANT. IN EQUITY, NO. —

Order authorizing receiver to employ counsel

This cause coming on to be heard upon the petition of G. H. Gilbert, receiver herein, for leave to employ counsel for said receiver, and it appearing to the court that there are numerous legal questions presented in the administration of said receivership and that it is necessary for said receiver to employ counsel to aid him in said administration, and that Messrs. Dinkelspiel & Dinkelspiel, practicing attorneys of the city and county of San Francisco, State of California, are competent to act as attorneys for said receiver, it is therefore

Ordered that leave be, and it is hereby, granted to said G. H. Gilbert, as receiver, to retain and employ Messrs. Dinkelspiel & Dinkelspiel as attorneys for said receiver in the above-entitled cause; and it is further

Ordered that said Dinkelspiel & Dinkelspiel be, and they are hereby, appointed as attorneys for said G. H. Gilbert.

Dated August 18, 1931.

HAROLD LOUDERBACK, *Judge.*

U.S.S. EXHIBIT 33

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

CHARACTER FINANCE CO. OF SANTA MONICA, A CALIFORNIA CORPORATION, PLAINTIFF, *v.* PRUDENTIAL HOLDING CO. OF LOS ANGELES, A NEVADA CORPORATION, DEFENDANT. IN EQUITY NO. 2984. BILL OF COMPLAINT

To the Honorable Judges of the United States District Court in and for the Northern District of California, Southern Division:

The complainant above named herein by its bill of complaint and on its own behalf and on behalf of all other stockholders of the defendant who may elect to come in and contribute to the expense of these proceedings, or who may hereafter join in the prosecution of this suit shows and submits to the court as follows:

I. That the complainant, Character Finance Co. of Santa Monica, is a corporation organized and existing under and by virtue of the laws of the State of California and having its office and principal place of business in the city of Santa Monica, county of Los Angeles, in said State, and a citizen and resident of said State.

II. That the defendant, Prudential Holding Co. of Los Angeles, is a corporation organized and existing under and by virtue of the laws of the State of Nevada, and a citizen of said State of Nevada, and a resident thereof, having its principal place of business in the city of Oakland, county of Alameda, State of California.

III. That the grounds upon which the jurisdiction of the court depends is the diversity of citizenship and the fact that the defendant has property in California within the jurisdiction of this court, and is a corporation organized and existing under and by virtue of the laws of the State of Nevada. The amount involved is in excess of $3,000. That this suit is brought for the appointment of a receiver, the determination of claims, the determination as to creditors and stockholders of the defendant corporation, and to obtain the assistance of this court in the preservation of the assets of the defendant corporation for the benefit of the creditors and stockholders of the said corporation.

IV. That at all times herein mentioned there was issued to your petitioner 6,400 shares of the capital stock of defendant corporation known as "class B preferred stock" and 3,200 shares of the common capital stock of said defendant corporation.

That your petitioner acquired the aforesaid shares of stock of said defendant corporation by reason of an agreement duly made and entered by and between your petitioner and said defendant on the 12th day of September 1929, wherein and whereby your petitioner did transfer to said defendant corporation all of its assets of whatsoever kind and character in exchange for the issuance to your petitioner by said defendant of the aforesaid shares of stock, and for the further consideration that said defendant agreed to assume all of the outstanding obligations of your petitioner existing at the said time; that the said assets transferred by petitioner to defendant by reason thereof consisted of personal and real property of the reasonable value of $96,000; that at the date of the said transfer your petitioner did have liabilities in the sum of approximately $15,000; that your petitioner has made demand upon said defendants to pay said obligations of your petitioner, in accordance with said agreement, but that said defendant has at all times refused, and now does refuse, to pay said obligations, except the sum of $10,000, and that there now remains owing and unpaid to divers and various creditors of your petitioner the sum of approximately $5,000, which said defendant refuses to pay, and your petitioner is informed and believes, and therefore alleges, that at the date hereof is unable to pay for the reasons hereinafter set forth.

V. That your petitioner is informed and believes, and therefore alleges, the fact to be that the authorized capital stock of said defendant corporation is the sum of $5,000,000, and that at the date hereof there is outstanding and issued 88,938 shares of class B preferred stock of said corporation of the par value of $10 per share, and 288,128 shares of common no-par stock.

VI. That defendant is and was at all times herein mentioned engaged in the buying, selling, exchanging, and general dealing in real properties, improved and unimproved, office buildings, and store buildings, dwelling houses, ranch properties, apartment houses, and operating, maintaining, leasing dwelling houses, apartment houses, and business blocks of all kinds and description, and maintaining a general real-estate agency and broker's business, including the right to manage estates, to act as agent, and broker, for any person or corporation; to make and obtain loans on real estate, improved or unimproved, and to supervise, manage, and protect such property and loans, and all interests and claims affecting the same; to have the same insured against fire and other casualties; to investigate the credit, financial solvency, and sufficiency of borrowers, mortgagors, and sureties upon bonds, mortgages, and undertakings; to improve, manage, operate, sell, mortgage, lease, or otherwise dispose of any property, real or personal, and to take mortgages, deeds of trust, assignments of mortgages, and deeds of trust upon the same; and to operate and conduct a general finance and discount business.

VII. That defendant corporation is possessed of large assets and holds and owns properties throughout the State of California.

VIII. That your petitioner is informed and believes and therefore alleges the fact to be that, in addition to the foregoing, said defendant corporation was organized and is organized for the purpose of acquiring the capital stock, both preferred and common, and assets in numerous and divers finance companies, each of which finance companies was respectively organized with the powers and purposes as set forth specifically in the preceding paragraph.

IX. That said defendant corporation has from time to time within the last several years past acquired numerous and divers finance and mortgage companies and thrift banks in various parts of the State of California and elsewhere, and has assumed the obligations of each and every one of the said finance and mortgage companies and thrift banks so taken over by said defendant, and that at the date hereof said defendant owns and operates said numerous and divers finance and mortgage companies and thrift banks and is operating each of said companies.

X. That plaintiff is informed and believes and therefore alleges that the defendant is indebted to various creditors in the aggregate sum of approximately $1,100,000.

XI. That plaintiff is informed and believes and therefore alleges that defendant is without sufficient funds to meet its present obligations, a majority of which are past due, although defendant has assets sufficient to cover its said obligations and a substantial surplus, if said assets can be liquidated, but not through forced attachment, execution, foreclosure, or bankruptcy sale.

XII. Plaintiff is informed and believes and therefore alleges that defendant is in possession of assets of a fair and reasonable value of approximately $1,150,000 consisting of real and personal property and accounts receivable.

XIII. Plaintiff is informed and believes and therefore alleges that various creditors of the defendant are pressing their claims against it and that one creditor has commenced a suit and levied attachment proceedings against the defendant, and that unless a receiver is appointed, further suits will be commenced against the defendant, and that attachments and executions will be levied against the property of the defendant, and that such suits will result in forced sales of the assets and property of the defendant, which forced sales would result in hardship and damage to the creditors, the plaintiff, and other creditors and stockholders of the defendant.

XIV. Plaintiff is informed and believes and therefore alleges that if sales of the assets or some part thereof were forced at the present time it would result in a severe and irreparable loss to the plaintiff, creditors, and other shareholders of defendant, as well as to defendant, prevent the orderly liquidation of the outstanding loans of the defendant and the orderly disposition of the real and personal property belonging to said defendant, and the fair value of such assets would not be realized, but if said assets can be preserved against a forced sale and can be withheld from sale until such time as market conditions improve a sufficient amount of money will be realized to pay all the debts of the defendant in full with assets remaining over which would enure to the benefit of plaintiff and the other shareholders of said defendant.

Plaintiff is informed and believes and therefore alleges that there are numerous liens against the assets of defendant by way of mortgages and deeds of trust and unless a receiver is appointed a great number of actions will be commenced against defendant which litigation will be long continued and expensive and will inevitably result in greatly depreciating the value of defendant's assets, to the great detriment of all of its creditors and shareholders.

XV. That plaintiff is informed and believes and therefore alleges that if defendant's assets are not taken into judicial custody in equitable preferences against your petitioner and other stockholders and creditors of the defendant will result, and unless the assets of the defendant are administered upon in a court of equity and all acts or proceedings at law, including executions, attachments, and other proceedings enjoined, plaintiff feels that the defendant corporation will be subject to a multiplicity of litigation which will result in an interruption of its business, with consequent serious dissipation of its assets.

XVI. That your petitioner is informed and believes and therefore alleges that through the mismanagement of the board of directors of defendant and its officers that certain mortgages and deeds of trust securing certain loans have been allowed to be improperly foreclosed, with the result that the mortgagors and lenders of the said loans secured by said mortgages and deeds of trust against the properties and assets of said defendant have instituted and are about to institute suits for deficiency judgments against said corporation. That one of said suits has been brought by the First National Bank of Bakersfield, Kern County, State of California, in the sum of approximately $60,000, against said corporation, which suit is now pending against said corporation, and by reason thereof certain properties and assets of said defendant are now under attachment and are in great danger of being sold under execution sale to satisfy this judgment and to satisfy any judgments or attachments which might subsequently in the same manner be levied, which sales, as hereinabove set forth, would result in a severe and irreparable loss to the plaintiff and to other creditors and stockholders of the defendant as well as to the defendant.

XVII. That your petitioner is further informed and believes and therefore alleges the fact to be that if the affairs of said defendant were properly managed that said foreclosures and deficiency suit would not have been brought nor would other suits be threatened, which might result in a severe and irreparable loss to plaintiff and to other stockholders of defendant, as aforesaid.

XIX. That your petitioner is informed and believes and therefore alleges the fact to be that the defendant owned a large equity in certain real property located in the county of Santa Clara, State of California, which property is subject to a deed of trust, and that the beneficiaries thereunder have begun foreclosure proceedings. That your petitioner is further informed and believes and therefore alleges that the directors and officers of said defendant have taken no step to prevent said foreclosure or to refinance said properties; that if the beneficiaries under said deed of trust are allowed to foreclose said property it will cause a severe and irreparable loss to plaintiff and to stockholders of defendant corporation and to defendant.

XX. That plaintiff is informed and believes and therefore alleges that defendant, through its board of directors and president, has not paid the taxes which have accrued and are maturing against the various and divers real properties belonging to said defendant and that by reason thereof there is great danger that said properties subject to said taxes will be lost to said plaintiff and other stockholders of defendant and defendant.

XXI. That your petitioner is further informed and believes and therefore alleges the fact to be that without the proper authority or legal authority the president of said corporation has transferred certain of the assets, namely, certain accounts receivable to various parties, for the purpose of handling and adjusting; that in this manner these accounts receivable have passed beyond the direct control of the said defendant, which in effect, as plaintiff is informed and believes and, therefore alleges, has allowed a liquidating agent to take control of said assets.

XXII. That plaintiff and other stockholders have often made demand of the directors, and particularly of F. W. Beck, president of the corporation, and C. M. Hawkins, a director of said corporation, who are actively in charge of the affairs and conduct of said corporation, for information pertaining to the affairs of said defendant, but that said F. W. Beck and C. M. Hawkins have refused at all times to give or divulge any information pertaining to the affairs of said corporation to your petitioner.

XXIII. That plaintiff is informed and believes and therefore alleges the fact to be that by reason of the mismanagement, carelessness, and negligence of the directors and officers of said defendant corporation, said defendant corporation has been allowed to become involved financially in the manner as hereinabove set forth, and that said officers and directors of said defendant will take no steps or actions to economize or to properly conduct the said business, taking into consideration its present circumstances; that plaintiff is unable to obtain any relief from the directors of the defendant corporation now in office, and if demand were made upon them for such relief from the said acts and mismanagement herein mentioned, said relief would not be granted. That demand has been made upon the directors of said corporation as to a statement of their condition by petitioner herein but that said directors have at all times refused to give to petitioner herein any information pertaining to the affairs of said defendant.

XXIV. That inasmuch as plaintiff has no adequate remedy at law and can only have relief in equity, plaintiff files this bill of complaint on behalf of itself and other stockholders and creditors of defendant corporation who may hereafter join herein for judgment.

XXV. That it will be necessary for any receiver appointed herein to issue receiver's certificates for the payment of current obligations of the defendant corporation, and plaintiff prays for equitable relief pending the final determination of this action, as follows:

1. That this honorable court will forthwith appoint a receiver of all and singular the property and assets of every nature wheresoever situated, held, owned, or controlled by the defendant corporation with full power and authority to take into his possession, hold, manage, and conduct the business now being conducted by defendant corporation, with such powers as this honorable court may from time to time grant, including the power to borrow

money on receiver's certificates or otherwise for that purpose to incur such expense as may be necessary or advisable in connection therewith; to purchase for cash or credit such merchandise, supplies, materials, or other property as may be necessary or advisable in connection with the administration of the assets of the defendant; to sell in the regular course or conduct of the business, or otherwise, all or any part of the assets and merchandise of the defendant; to bring suit for, collect, and receive and take to his possession all the property and assets, real or personal, goods, chattels, credits, moneys, rights, claims and effects, books, papers, securities, and all other property and assets, whatsoever and wheresoever situated, of the defendant; to institute, prosecute, become party to, intervene in, compromise, or defend suits and actions at law or in equity or otherwise, either for the recovery or the protection or maintenance of any of the property and assets of the defendant as he may deem necessary or proper, including the institution and prosecution of such ancillary proceedings as said receiver may deem advisable, and including any other suits or actions or proceedings at law or in equity or otherwise in which the defendant may have any interest as plaintiff, defendant, or otherwise, and including the power to continue any such pending suits; defend or otherwise dispose of any such proceedings, suits, or actions; to settle at compound or make allowance on any or all debts that may now or hereafter be due or owing to the defendant as he may deem advisable or proper, subject to the further authorization of this honorable court; to pay any claims for wages, taxes, interest, or other debts that may be entitled to priority and with the other usual powers of receivers in such cases; and that the officers, managers, superintendents, agents, and employees of the defendant be required forthwith to deliver up to said receiver possession of all or every part of the properties of the defendant, wherever situated, including the several books, vouchers, and papers in any way relating to the business of the defendant.

2. That this honorable court will administer all and singular the property rights and business belonging to the defendant and adjudicate and adjust any decree and enforce the several and respective liens and priorities existing thereon and the rights, liens, equities, and claims of all creditors of the defendant as the same may be finally ascertained and decreed by this court.

3. That all creditors, stockholders, and other persons be enjoined from instituting or prosecuting any actions, suits, or proceedings at law or in equity or under any statute against the defendant, and from levying any attachments, executions, or other processes upon or against any of the properties of the defendant or from taking or attempting to take into their possession the property or any part of the property of the defendant.

4. That all creditors of the defendant and all persons interested in the defendant be permitted to intervene and become parties to this suit if and as permitted and authorized to do by this honorable court.

5. That an order be made herein enjoining and restraining the defendant corporation and the officers, directors, agents, and employees of the defendant corporation from interfering with, transferring, selling, or disposing of any of the property or income of the defendant corporation, or from taking possession of or levying upon or attempting to sell or dispose of in any manner any part of the property of the defendant corporation.

6. That at such time as may be found just and proper the properties of the defendant may be ordered to be sold, in whole or in part, in such manner, upon such terms and conditions as this honorable court shall deem just and equitable, and that any such order of sale shall make suitable provision for the preservation of all equities, rights, priorities, claims, and liens of the creditors of the defendant corporation and shall provide for the sale of the property of the defendant, subject to or free from all and any liens and incumbrances in whole or in part, and in such manner and upon such terms as this honorable court may direct, and that the proceeds of any such sale be distributed among those entitled thereto as this honorable court shall adjudicate, or that the properties of the defendant corporation may be returned to it and that claimant corporation may have such other further relief in the premises as to this honorable court may seem proper and as may be necessary fully to enforce and protect the rights and equities of complainant and of all the creditors of defendant corporation and that in case of any sale herein of the property of the defendant corporation it may be directed to make, execute, and deliver to the accepted purchaser or purchasers upon any such sales such releases, bill of sale, and conveyances as may be necessary or proper to vest in such purchaser or purchasers the title to all such several properties.

7. That such order shall be made by this honorable court as to the services of this bill of complaint and of any order that may be made in this suit as may be deemed sufficient and proper to this honorable court.

8. That plaintiff may have such other and further relief in the premises as the nature and circumstances of this case may require and as to this honorable court may seem just and proper.

9. That the defendant corporation be required, pursuant to the rules and practice of this court, to answer all and singular the matters hereinbefore stated but not under oath, an answer under oath being expressly waived, and further to perform and abide by such order, direction, and decree herein as to the court shall seem meet.

May it please the court to grant unto your complainant a writ of subpena to be issued out of and under the seal of this court and directed to the defendant requiring it to appear on a certain day before the court and make answer as aforesaid.

GOLD, QUITTNY & KEARSLEY,
By BRICE KEARSLEY, Jr.,
Attorneys for Complainant.

UNITED STATES OF AMERICA,
NORTHERN DISTRICT OF CALIFORNIA,
STATE OF CALIFORNIA,
City and County of California, ss:

Brice Kearsley, Jr., being first duly sworn, deposes and says that he is the attorney for the petitioner above named; that he has read and knows the contents of the foregoing petition and that the statements therein contained are true to the best of his knowledge, information, and belief; that the reason why this verification is made by deponent and not by the petitioner, Character Finance Co. of Santa Monica, is because the said petitioner and all of its officers and directors are residents of the county of Los Angeles, State of California, and that none of its officers and directors are within the northern district of California, and all of said officers and directors are at a great distance from this district; that affiant has been authorized by the said petitioner to verify and file this petition herein, and to conduct the proceedings herein on behalf of said petitioner.

BRICE KEARSLEY, Jr.

Subscribed and sworn to before me this 15th day of August 1931.

MARK E. LEVY,
Notary Public in and for the City and County of San Francisco, State of California.

U.S.S. EXHIBIT 34

IN THE DISTRICT COURT OF THE UNITED STATES IN AND FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

CHARACTER FINANCE CO. OF SANTA MONICA, A CALIFORNIA CORPORATION, PLAINTIFF, *v.* PRUDENTIAL HOLDING CO. OF LOS ANGELES, A NEVADA CORPORATION, DEFENDANT. IN EQUITY NO. 2984–L. ORDER APPOINTING RECEIVER IN EQUITY

Upon reading the bill of complaint herein verified on the 14th day of August 1931,

Now, on motion of Brice Kearsley, Jr., solicitor for the complainant, it is

Ordered and decreed as follows:

1. That the complainant is entitled to the relief herein granted and that the complainant has no adequate remedy save through the granting of this decree, and that it is necessary for the protection and preservation of the respective rights and equities of the complainant and the other stockholders and the creditors of the defendant that the property and business of the defendant be preserved through a receiver to be appointed in this suit by this court, and that it is necessary that a receiver of the defendant and its property, assets, and effects should be appointed by this court.

2. That G. H. Gilbert be, and he hereby is, appointed receiver of the defendant, Prudential Holding Co. of Los Angeles, a Nevada corporation, and of all the property, assets, and effects of said defendant, real, personal, and mixed, of whatever kind and description, including all real estate, chattels, rights, credits, choses in action, stock, bonds, securities, accounts, bills receivable, cash in bank on deposit and in hand, money, things in action, books of account, deeds, leases, contracts, correspondence, papers, and memoranda of the above-named defendant, and said receiver is hereby authorized, empowered, and directed to take possession of the same, with all the authority usually granted to receivers and to retain counsel, which shall be subject to the approval of this court.

3. That said receiver be and he hereby is, until the further order or direction of this court, authorized, empowered, and directed to continue, manage, and operate the business of the defendant and manage the properties of the defendant; to buy and sell merchandise, supplies or stock in trade, for cash or credit, as may be deemed advisable by said receiver; to employ such managers, agents, employees, servants, accountants, mechanics, and laborers, and such other help as may in his judgment be advisable or necessary in the management, conduct, control, operation, or custody of the defendant's properties, assets, and effects and to apply to this court for leave to issue such receiver's certificates for the purpose of meeting the current obligations of said defendant as may be authorized from time to time by this court.

4. That said receiver be and he hereby is authorized and empowered to make such payments and disbursements as may be necessary or proper for the preservation or operation of the properties of the defendant, including the authority to make payment for wages and salaries accrued within 1 month past for services and taxes.

5. That the said receiver shall have the full power to demand, sue for, collect, receive, and take into his possession all the goods, chattels, rights and credits, moneys and effects, lands and tenements, books, papers, choses in action, bills, notes, and property of every description and to institute suits at law or in equity for the recovery of any estate, property, damages, or demands existing in favor of said corporation, and in his discretion to compound and settle with any debtor of the corporation or with persons having possession of its property, or in any way responsible at law or

in equity to the corporation upon such terms and in such manner as he shall deem just and beneficial to the corporation, and perform all duties imposed upon him as required by law.

6. That said defendant and any person or persons or corporation acting under its direction or having any possession or control over any of its assets of every name and nature shall upon presentation of a certified copy of this decree deliver to said receiver all of the property of said defendant, real, personal, and mixed, of whatsoever kind and description, including all real estate, chattels, raw materials, material in process of manufacture, rights, credits, choses in action, accounts, bills receivable, cash in bank or deposit and in hand, moneys, things in action, books of account, vouchers, deeds, leases, contracts, notes, correspondence, books, papers, and memoranda of the above-named defendant, in their possession and under their control, and each of the directors, officers, agents, and employees of the defendant is hereby commanded and required to obey and perform such orders as may be given to them from time to time by the said receiver in the discharge of his duties as receiver; and it is further

Ordered, That the defendant company and each and every one of its officers, agents, directors, and employees, and all other persons, including sheriffs, marshals, and constables, be, and they hereby are, enjoined and restrained from selling, transferring, levying, attaching, disposing of, or in any manner interfering with any of the property, assets, or effects of the defendant company, or from taking possession of or interfering with any part thereof, or from in any manner obstructing or interfering with the possession or management of any part of the property over which the receiver is hereby appointed, or doing any act or thing to prevent the discharge by the receiver of his duties for the operation of said properties under the order of the court; and it is further

Ordered, That all persons, firms, and corporations be, and they are hereby, enjoined and restrained from suing, instituting actions, levying executions upon, or securing judgments, attaching, intermeddling with, or taking possession of any property of the defendant; and it is further

Ordered, That said receiver forthwith file in the office of the clerk of this court his bond to the United States of America with sufficient sureties, duly approved by this court, in the sum of $50,000, conditioned that he will well and truly perform the duties of his office and duly account for all moneys or property which may come into his hands and abide by and perform all things which he shall be directed to do; and it is further

Ordered, That said receiver report to this court within 30 days from the date hereof and every 30 days thereafter as to the operation of the business, the condition of the assets and liabilities of said defendant, and the advisability of continuing the business and his administration thereof.

Done and ordered this 15th day of August 1931, at San Francisco, Calif.

HAROLD LOUDERBACK,
United States District Judge.

U.S.S. EXHIBIT 35

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

IN THE MATTER OF THE APPLICATION OF CATHERINE ARMSTRONG, REALTY MORTGAGE INSURANCE CO., A CALIFORNIA CORPORATION, AND PARKER LINTON FOR THE ADJUDICATION OF PRUDENTIAL HOLDING CO. OF LOS ANGELES, A NEVADA CORPORATION, ALLEGED BANKRUPT. NO. — IN BANKRUPTCY. PETITION IN INVOLUNTARY BANKRUPTCY

To the Honorable Judges of the United States District Court in and for the Northern District of California:

The petition of Catherine Armstrong, Realty Mortgage Insurance Co., a California corporation, and Parker Linton, respectfully represents:

I. That Prudential Holding Co. of Los Angeles is a corporation duly organized under the laws of the State of Nevada and has, for the greater portion of the 6 months next preceding the date of the filing of this petition, had its principal place of business at Oakland, county of Alameda, and State of California, in the Northern District of California, and owes debts to the amount of $1,000 and more, and is a business corporation, and is not a municipal railroad, insurance, or banking corporation, and is insolvent, and is not a wage earner nor a person engaged in farming or tillage of the soil.

II. That your petitioners are creditors of the said Prudential Holding Co. of Los Angeles, a Nevada corporation, having provable claims amounting in the aggregate in excess of securities held by them to the sum of $500 and more.

III. That the nature and amount of your petitioners' claims are as follows:

The claim of Catherine Armstrong is based upon a promissory note dated September 21, 1930, made, executed, and delivered to the petitioner herein by the alleged bankrupt for value received in the sum of $2,975. That said note was due on demand. That default has been made in the payment of said promissory note and demand made upon the alleged bankrupt for payment. That said alleged bankrupt failed, neglected, and refused to pay said amount due on said note, or any part thereof.

The claim of Realty Mortgage Insurance Co. is based upon a promissory note dated April 1, 1931, made, executed, and delivered to the petitioner herein by the alleged bankrupt for value received in the sum of $7,500. That said promissory note was due 2 years from date.

The claim of Parker Linton is an account stated within 2 years last past between the alleged bankrupt and the petitioner herein in the sum of $2,500. Said sum is agreed to be due, owing and payable from the alleged bankrupt to the petitioner herein. That at the time said account was stated the alleged bankrupt promised to pay the amount thereof to the petitioner herein. The alleged bankrupt has failed, neglected, and refused and does now fail, neglect, and refuse to pay said amount, or any part thereof, and that neither said amount, nor any part thereof, has been paid.

IV. Your petitioners further represent that the said Prudential Holding Co. of Los Angeles did within 4 months next preceding the date of the filing of this petition commit an act of bankruptcy, in that heretofore, to wit, on or about the 15th day of August 1931, while insolvent, a receiver in equity, G. H. Gilbert, was appointed by a judge of the United States District Court in and for the Northern District of California, Southern Division, in that certain case entitled "*Character Finance Co. of Santa Monica, a California corporation, plaintiff,* v. *Prudential Holding Co. of Los Angeles, a Nevada corporation, defendant*", in Equity No. 2934–L; that said receiver was put in charge of the alleged bankrupt's property; that said receiver has duly qualified by filing his bond in the penal sum of $50,000 and is now in possession of the alleged bankrupt's property.

Wherefore your petitioners pray that service of this petition, with subpena, may be made upon the alleged bankrupt, as provided in the acts of Congress relating to bankrupts, and that the said alleged bankrupt may be adjudged by this court to be a bankrupt within the purview of said acts.

PARKER LINTON,
CATHERINE S. ARMSTRONG,
REALTY MORTGAGE INSURANCE CORPORATION,
By J. H. ENGELHART, *Vice President.*
JANEWAY, BEACH & HANKEY,
By EARL C. JANEWAY,
Attorneys for Petitioning Creditors.

STATE OF CALIFORNIA,
County of Los Angeles, ss:

Parker Linton, being first duly sworn, deposes and says that he is one of the petitioners above named and does hereby make solemn oath that the statements contained in the above and foregoing petition subscribed by him are true.

PARKER LINTON.

Subscribed and sworn to before me this 4th day of September 1931.

[SEAL] B. M. HARTMAN,
Notary Public in and for the County of Los Angeles, State of California.

STATE OF CALIFORNIA,
County of Los Angeles, ss:

J. H. Engelhart, being first duly sworn, deposes and says that he is vice president of Realty Mortgage Insurance Co., one of the petitioning creditors above named. That the statements contained in the foregoing petition subscribed by him are true. That he is duly authorized by the Realty Mortgage Insurance Co. to sign this petition and make this verification.

J. H. ENGELHART.

Subscribed and sworn to before me this 1st day of September 1931.

[SEAL] M. A. LYDON,
Notary Public in and for the County of Los Angeles, State of California.

STATE OF CALIFORNIA,
County of Los Angeles, ss:

Catherine Armstrong, being first duly sworn, deposes and says: That she is one of the petitioners above named and does hereby make solemn oath that the statements contained in the above and foregoing petition subscribed by her are true.

CATHERINE ARMSTRONG.

Subscribed and sworn to before me this 2d day of September 1931.

M. A. LYDON,
Notary Public in and for the County of Los Angeles, State of California.

U.S.S. EXHIBIT 36

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

IN THE MATTER OF PRUDENTIAL HOLDING CO. OF LOS ANGELES, A NEVADA CORPORATION, ALLEGED BANKRUPT. NO. 21022–S IN BANKRUPTCY. ORDER APPOINTING RECEIVER

On verified petition duly filed, asking for the appointment of a receiver in the above-entitled matter, and upon the filing of a bond by petitioning creditors herein, as required by section 3 (e) of the Bankruptcy Act, in the sum of $10,000, which bond has been approved by this court, and it appearing satisfactorily therefrom that it is absolutely necessary for the preservation of the assets of said alleged bankrupt that a receiver should be appointed, upon motion of Janeway, Beach & Hankey, attorneys for said petitioner,

It is ordered that G. H. Gilbert, of San Francisco, Calif., be, and he is hereby, appointed receiver of all property of whatsoever

nature and wheresoever situated, now owned by or in possession of said alleged bankrupt, and of all and any property wheresoever located and of whatsoever nature, being the property of said alleged bankrupt and in the possession of any agent, servant, officer, or representative of said alleged bankrupt, with authority to take possession of, hold, preserve, care for, inventory, insure, segregate, and move all assets of said alleged bankrupt, until the appointment and qualification of the trustee herein, and with the further authority to collect such accounts receivable as are found due to said estate, and with the further authority to conduct the business and sell the same as a going concern if it can be done with benefit to said estate, and said receiver is authorized to do all and any such acts and take all and any such proceedings as may enable him forthwith to obtain possession of all and any such property; and

It is further ordered that the duties and compensation of said receiver are hereby extended beyond those of a mere custodian within the meaning of section 48 of the Bankruptcy Act to embrace the conduct of the business and marshaling of the assets, preparation of inventories, collection, sale, and disposition of accounts and notes receivable, and the conduct of the business of the said alleged bankrupt as hereinabove specifically authorized; and

It is further ordered that all persons, firms, and corporations, including the said alleged bankrupt, and all attorneys, agents, officers, and servants of the said alleged bankrupt forthwith deliver to said receiver all property of whatsoever nature and wheresoever located, including merchandise, accounts, notes, and bills receivable, drafts, checks, moneys, securities, and all other choses in action, account books, records, chattels, lands, and buildings, life and fire and all other insurance policies in the possession of them, or any of them, and owned by the said alleged bankrupt, and the said alleged bankrupt is ordered forthwith to deliver to said receiver all and any such property now in the possession of the said alleged bankrupt; and

It is further ordered that all persons, firms, and corporations, including all creditors of the said alleged bankrupt, and the representatives, agents, attorneys, and servants of all such creditors, and all sheriffs, marshals, and other officers, and their deputies, representatives, and servants are hereby enjoined and restrained from removing, transferring, disposing of, or selling, or attempting in any way to remove, transfer, or dispose of, sell, or in any way interfere with any property, assets, or effects in the possession of the said alleged bankrupt, or owned by the said alleged bankrupt, and whether in the possession of any officers, agents, attorneys, or representatives of said alleged bankrupt, or otherwise, and all said persons are further enjoined from executing or issuing, or causing the execution or issuance or the suing out of any court of any writ, process, summons, attachment, replevin, or other proceeding for the purpose of impounding or taking possession of or interference with any property owned by or in the possession of the said alleged bankrupt or owned by said alleged bankrupt, and whether in the possession of any agents, servants, or attorneys of said alleged bankrupt, or otherwise; and

It is further ordered that said receiver is directed and authorized, as provided under the Postal Laws and Regulations of the United States, to receive all mail matter addressed to the above-named alleged bankrupt; and

It is further ordered that before entering upon his duties said receiver shall furnish a bond conditioned for the faithful performance of his duties with a good and sufficient surety or sureties in the sum of $10,000, which bond shall be approved by the clerk of this court.

Dated this 30th day of September 1931.

HAROLD LOUDERBACK,
District Judge.

U.S.S. EXHIBIT 37

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN THE MATTER OF PRUDENTIAL HOLDING CO. OF LOS ANGELES, A NEVADA CORPORATION, ALLEGED BANKRUPT. NO. 21022–S IN BANKRUPTCY

Petition for order appointing attorneys for the receiver

To Hon. Harold Louderback, judge of the above-entitled court:

Now comes G. H. Gilbert, of the city and county of San Francisco, State and Northern District of California, and respectfully shows and alleges:

That on the 30th day of September 1931, by an order duly made and entered in the above-entitled proceedings, your petitioner was appointed receiver, prior to adjudication, of the estate and effects of the above-named bankrupt, and has duly qualified as such receiver; that your petitioner as such receiver has been duly authorized to take and hold possession of the assets of said alleged bankrupt until the appointment and qualification of a trustee herein, and with further authority to collect the accounts receivable and conduct the business of said bankrupt.

That your petitioner is informed and verily believes, and on that ground alleges, that the assets of said bankrupt approximate the sum of $1,000,000 and are situated in various portions of the State of California.

That ancillary proceedings are necessary to be taken in the Southern District of California, and that it will be necessary to examine the officers of said bankrupt corporation and other witnesses relative to the acts, conduct, and property of said bankrupt for the purpose of ascertaining the extent and whereabouts of such property subject to administration by your petitioner as such receiver.

That various suits are pending against the above-named bankrupt and it will be necessary for your receiver to appear in such suits for the protection of the estate herein; that various proceedings in foreclosure and sale under deeds of trust covering property of said bankrupt are threatened and that it will be necessary to apply both to this court and to other courts having ancillary jurisdiction for restraining orders in order to protect the interests of the general unsecured creditors of the estate of said bankrupt, and that it will be necessary to commence plenary and summary proceedings for the purpose of collecting the assets of said bankrupt estate and to conserve and protect the same until the election and qualification of a trustee herein; that in aid of his administration of said bankrupt estate your petitioner will require the services and advice of counsel relative to necessary legal proceedings to be taken by him to collect and conserve and protect the assets of said bankrupt estate and to conduct examinations of witnesses as aforesaid; your petitioner alleges that Messrs. Martin J. Dinkelspiel, Ernest J. Torregano, Charles M. Stark, and A. B. Kreft, attorneys at law, duly licensed and admitted to practice in the above-entitled court, are proper and competent attorneys to be retained by your petitioner, with the approval of this court, in aid of his administration of said bankrupt estate; and that said attorneys, and each of them, do not represent adverse interests to the general creditors, and that said attorneys are familiar and experienced with the laws in reference to the administration of bankrupt estates and the National Bankruptcy Act, and that such services which will be rendered by said attorneys to your petitioner will be beneficial to the general creditors of said bankrupt estate, and the appointment of such attorneys is sought for the reason of a large number of matters requiring services of counsel, and the appointment of such counsel will enable your petitioner to subdivide among them the various matters required to be attended to and the legal proceedings required to be instituted.

Wherefore your petitioner prays that an order be made and entered herein appointing as your petitioner's attorneys the said Martin J. Dinkelspiel, Ernest J. Torregano, Charles M. Stark, and A. B. Kreft in aid of his administration of said bankrupt estate in the above-entitled court and in such ancillary proceedings as may be brought by your petitioner. Your petitioner has annexed hereto the affidavit of said attorneys, as required by the general orders of the United States Supreme Court, and your petitioner prays that the court make such further and other order as may be just and proper in the premises.

G. H. GILBERT, *Petitioner.*

UNITED STATES OF AMERICA,
NORTHERN DISTRICT OF CALIFORNIA,
City and County of San Francisco, ss:

G. H. Gilbert, being first duly sworn, deposes and says that he is the petitioner named and described in the foregoing petition, and hereby makes solemn oath that the statements therein contained are true according to the best of his knowledge, information, and belief.

G. H. GILBERT.

Subscribed and sworn to before me this 6th day of October 1931.

[SEAL] MARK E. LEVY,
Notary Public in and for the City and County of San Francisco, State of California.

UNITED STATES OF AMERICA,
NORTHERN DISTRICT OF CALIFORNIA,
City and County of San Francisco, ss:

Martin J. Dinkelspiel, Ernest J. Torregano, Charles M. Stark, and A. B. Kreft, being each first duly sworn, depose and say that they are the attorneys named in the foregoing receiver's petition; that they do not represent, or are connected with, the bankrupt or any person having an adverse interest to the receiver or creditors herein, and will consent to act as attorneys for said receiver pursuant to any order made by the above-entitled court.

MARTIN J. DINKELSPIEL.
ERNEST J. TORREGANO.
CHARLES M. STARK.
A. B. KREFT.

Subscribed and sworn to before me this 6th day of October 1931.

CHARLES E. KEITH,
Notary Public in and for the City and County of San Francisco, State of California.

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN THE MATTER OF PRUDENTIAL HOLDING CO. OF LOS ANGELES, A NEVADA CORPORATION, ALLEGED BANKRUPT. NO. 21022–S IN BANKRUPTCY

Order appointing attorneys for the receiver

Upon the reading, filing, and consideration of the verified petition of G. H. Gilbert, the receiver herein, accompanied by the affidavit of Martin J. Dinkelspiel, Ernest J. Torregano, Charles M. Stark, and A. B. Kreft, Esqs.,

It is hereby ordered that Martin J. Dinkelspiel, Ernest J. Torregano, Charles M. Stark, and A. B. Kreft be, and they are hereby, appointed as attorneys for said receiver in aid of the administration of the estate of the above-named bankrupt.

Dated this 10th day of October 1931.

HAROLD LOUDERBACK,
United States District Judge.

U.S.S. EXHIBIT 38

IN THE SOUTHERN DIVISION OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF CATHERINE ARMSTRONG, REALTY MORTGAGE INSURANCE CO., A CALIFORNIA CORPORATION, AND PARKER LINTON, FOR THE ADJUDICATION OF PRUDENTIAL HOLDING CO. OF LOS ANGELES, A NEVADA CORPORATION, ALLEGED BANKRUPT. BANKRUPTCY, 21022–S

Ordered:

1. That the motion to strike from the files and dismiss the proceeding of the Prudential Holding Co. of Los Angeles be, and the same is hereby, granted.

2. That the several motions to strike the petition to intervene of John P. Sheather be, and the same are hereby, granted.

3. That the several motions to strike from the files the petition of Parker Linton, Realty Mortgage Insurance Co., a California corporation, and Catherine Armstrong be, and the same are hereby, granted.

4. That all petitions to intervene be, and the same are hereby, denied.

5. That the application for leave to file amended involuntary petition in bankruptcy be, and the same is hereby, denied.

Dated November 4, 1931.

A. F. ST. SURE,
United States District Judge.

U.S.S. EXHIBIT 39

DISTRICT COURT OF THE UNITED STATES, NORTHERN DISTRICT OF CALIFORNIA, SOUTHERN DIVISION

At a stated term of the Southern Division of the United States District Court for the Northern District of California, held at the court room thereof, in the city and county of San Francisco, on Friday, the 2d day of October A.D. 1931.

Present: The Honorable Harold Louderback, district judge.

Character Finance Co. of S.M. *v.* Prudential Holding Co. of L.A. Equity No. 2984–L.

Defendant's motion to dismiss the bill of complaint, having heretofore been submitted and now being fully considered, it is ordered that the said motion to dismiss bill of complaint be, and the same is hereby, granted.

I hereby certify that the foregoing is a full, true, and correct copy of an original order made and entered in the above-entitled cause.

Attest my hand and seal of said district court, this 12th day of April A.D. 1933.

WALTER B. MALING, *Clerk.*
By HARRY L. FOUTS, *Deputy Clerk.*

RECESS

Mr. ASHURST. I move that the Senate sitting as a Court of Impeachment take a recess until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. The question is on the motion of the Senator from Arizona.

The motion was agreed to; and (at 4 o'clock and 38 minutes p.m.) the Senate sitting as a Court of Impeachment took a recess until tomorrow, Thursday, May 18, 1933, at 10 o'clock a.m.

LEGISLATIVE SESSION

The Senate, pursuant to the order for a recess entered yesterday, resumed legislative session.

MESSAGE FROM THE PRESIDENT—PUBLIC-WORKS PROGRAM FOR RELIEF OF UNEMPLOYMENT (H.DOC. NO. 37)

During the impeachment proceedings, on motion of Mr. ROBINSON of Arkansas, and by unanimous consent, the Senate sitting as a Court of Impeachment took a recess in order to receive, as in legislative session, a message in writing from the President of the United States, which was communicated to the Senate by Mr. Latta, one of his secretaries.

On request of Mr. ROBINSON of Arkansas, the Presiding Officer (Mr. HASTINGS in the chair) laid before the Senate the message from the President of the United States, which was read, referred to the Committee on Finance, and ordered to be printed, as follows:

To the Congress:

Before the special session of the Congress adjourns, I recommend two further steps in our national campaign to put people to work.

I

My first request is that the Congress provide for the machinery necessary for a great cooperative movement throughout all industry in order to obtain wide reemployment, to shorten the working week, to pay a decent wage for the shorter week, and to prevent unfair competition and disastrous overproduction.

Employers cannot do this singly or even in organized groups, because such action increases costs and thus permits cutthroat underselling by selfish competitors unwilling to join in such a public-spirited endeavor.

One of the great restrictions upon such cooperative efforts up to this time has been our antitrust laws. They were properly designed as the means to cure the great evils of monopolistic price fixing. They should certainly be retained as a permanent assurance that the old evils of unfair competition shall never return. But the public interest will be served if, with the authority and under the guidance of Government, private industries are permitted to make agreements and codes insuring fair competition. However, it is necessary, if we thus limit the operation of antitrust laws to their original purpose, to provide a rigorous licensing power in order to meet rare cases of noncooperation and abuse. Such a safeguard is indispensable.

II

The other proposal gives the Executive full power to start a large program of direct employment. A careful survey convinces me that approximately $3,300,000,000 can be invested in useful and necessary public construction, and at the same time put the largest possible number of people to work.

Provision should be made to permit States, counties, and municipalities to undertake useful public works, subject, however, to the most effective possible means of eliminating favoritism and wasteful expenditures on unwarranted and uneconomic projects.

We must, by prompt and vigorous action, override unnecessary obstructions which in the past have delayed the starting of public-works programs. This can be accomplished by simple and direct procedure.

In carrying out this program it is imperative that the credit of the United States Government be protected and preserved. This means that at the same time we are making these vast emergency expenditures there must be provided sufficient revenue to pay interest and amortization on the cost, and that the revenue so provided must be adequate and certain rather than inadequate and speculative.

Careful estimates indicate that at least $220,000,000 of additional revenue will be required to service the contemplated borrowings of the Government. This will of necessity involve some form or forms of new taxation. A number of suggestions have been made as to the nature of these taxes. I do not make a specific recommendation at this time, but I hope that the Committee on Ways and Means of the House of Representatives will make a careful study of revenue plans and be prepared by the beginning of the coming week to propose the taxes which they judge to be best adapted to meet the present need and which will at the same time be least burdensome to our people. At the end of that time, if no decision has been reached, or if the means proposed do not seem to be sufficiently adequate or certain, it is my intention to transmit to the Congress my own recommendations in the matter.

The taxes to be imposed are for the purpose of providing reemployment for our citizens. Provision should be made for their reduction or elimination—

First. As fast as increasing revenues from improving business become available to replace them.

Second. Whenever the repeal of the eighteenth amendment, now pending before the States, shall have been ratified and the repeal of the Volstead Act effected. The prepprohibition revenue laws would then automatically go into effect and yield enough wholly to eliminate these temporary reemployment taxes.

Finally, I stress the fact that all of these proposals are based on the gravity of the emergency, and that therefore it is urgently necessary immediately to initiate a reemployment campaign if we are to avoid further hardships, to sustain business improvement, and to pass on to better things.

For this reason I urge prompt action on this legislation.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, *May 17, 1933.*

Mr. WAGNER. As in legislative session, I ask unanimous consent to introduce a bill to carry out the recommendations contained in the message of the President just read.

The PRESIDING OFFICER. Without objection, as in legislative session, the bill will be received and appropriately referred.

The bill (S. 1712) to encourage national industrial recovery, to foster fair competition, and to provide for the construction of certain useful public works, and for other purposes, was read twice by its title and referred to the Committee on Finance.

Mr. LEWIS. Mr. President, I ask unanimous consent that any amendments desired to be offered on the subject matter of the bill may also be submitted and printed.

The PRESIDING OFFICER. The bill and any proposed amendments thereto will be printed and referred to the Committee on Finance.

MESSAGE FROM THE HOUSE

A message from the House of Representatives, by Mr. Chaffee, one of its clerks, communicated to the Senate the intelligence of the death of Hon. CHARLES H. BRAND, late a Representative from the State of Georgia, and transmitted the resolutions of the House of Representatives thereon.

The message announced that the House had passed the following bills and joint resolution, in which it requested the concurrence of the Senate:

H.R. 5091. An act to amend section 289 of the Criminal Code;

H.R. 5152. An act granting the consent of Congress to the State Highway Commission of Virginia to replace and maintain a bridge across Northwest River in Norfolk County, Va., on State highway route no. 27;

H.R. 5173. An act granting the consent of Congress to the State Highway Commission of Virginia to maintain a bridge already constructed to replace a weak structure in the same location, across the Staunton and Dan Rivers, in Mecklenburg County, Va., on United States Route No. 15;

H.R. 5208. An act to amend the probation law;

H.R. 5329. An act creating the St. Lawrence Bridge commission and authorizing said commission and its successors to construct, maintain, and operate a bridge across the St. Lawrence River at or near Ogdensburg, N.Y.;

H.R. 5476. An act to extend the times for commencing and completing the construction of a bridge across the Savannah River at or near Burtons Ferry, near Sylvania, Ga.; and

H.J.Res. 159. Joint resolution granting the consent of Congress to a compact or agreement between the State of Kansas and the State of Missouri authorizing the acceptance for and on behalf of the States of Kansas and Missouri of title to a toll bridge across the Missouri River from a point in Platte County, Mo., to a point at or near Kansas City, in Wyandotte County, Kans., and specifying the conditions thereof.

The message also announced that the House had agreed to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5081) to provide for the common defense; to aid interstate commerce by navigation; to provide flood control; to promote the general welfare by creating the Tennessee Valley Authority; to operate the Muscle Shoals properties; and to encourage agricultural, industrial, and economic development.

The message further announced that the House had disagreed to the amendment of the Senate to the bill (H.R. 4220) for the protection of Government records; asked a conference with the Senate on the disagreeing votes of the two Houses thereon; and that Mr. MCKEOWN, Mr. CELLER, and Mr. KURTZ were appointed managers on the part of the House at the conference.

SENATE ENROLLED BILLS

The message also announced that the Speaker had affixed his signature to the following enrolled bills:

S. 73. An act to authorize the Comptroller General to allow claim of district no. 13, Choctaw County, Okla., for payment of tuition of Indian pupils;

S. 1410. An act to amend section 207 of the Bank Conservation Act with respect to bank reorganizations;

S. 1415. An act to amend sections 5200 and 5202 of the Revised Statutes, as amended, to remove the limitations on national banks in certain cases; and

S. 1582. An act to amend section 1025 of the Revised Statutes of the United States.

PETITIONS AND MEMORIALS

The VICE PRESIDENT laid before the Senate the following joint resolution of the Legislature of the State of Maryland, which was referred to the Committee on Finance:

Joint Resolution 5

A joint resolution requesting the Congress of the United States to repeal the tax on checks

Whereas the present national administration is meeting with remarkable success in restoring public confidence in our banking system and in preventing the hoarding of currency; and

Whereas one of the contributory causes of this hoarding was the tax of 2 cents on each check passing through the clearing houses and banks; and

Whereas the repeal of this tax would aid greatly in the resumption of normal banking transactions by the use of checks and thereby decrease the amount of currency withheld from circulation: Therefore be it

Resolved by the General Assembly of Maryland, That the Congress of the United States be, and it is hereby, urgently requested to repeal as speedily as possible the 2-cent tax on checks; and be it further

Resolved, That the secretary of state of Maryland be, and he is hereby, requested to send a copy of this resolution to the Speaker of the House of Representatives, to the President of the Senate, and to all the Representatives from Maryland in the Senate and House of Representatives of the United States Congress.

Approved April 21, 1933.

STATE OF MARYLAND,
EXECUTIVE DEPARTMENT.

I, David C. Winebrenner, 3d, secretary of state of the State of Maryland, do hereby certify that the aforegoing is a true and correct copy of Joint Resolution No. 5 of the acts of the general assembly of 1933.

In testimony whereof I have hereunto set my hand and affixed my official seal at Annapolis, Md., this 16th day of May 1933.

[SEAL] DAVID C. WINEBRENNER, 3d,
Secretary of State.

The VICE PRESIDENT also laid before the Senate the following resolutions of the Senate of the State of Massachusetts, which were referred to the Committee on Naval Affairs:

THE COMMONWEALTH OF MASSACHUSETTS,
OFFICE OF THE SECRETARY,
Boston.

Resolutions relative to the United States Naval Hospital and the United States Marine Hospital at Chelsea

Whereas the United States Naval Hospital and the United States Marine Hospital in the city of Chelsea have for many years rendered invaluable service in the care and treatment of veterans and employees of the Federal Government, and are equipped with excellent medical and surgical facilities and apparatus and skilled personnel; and

Whereas said hospitals have established a notable record for efficient and humanitarian work in this section of the United States, and have made an indelible impression upon the citizens of our Commonwealth for the admirable service rendered during a long period of years: Therefore be it

Resolved, That the senate respectfully petitions the President of the United States, in the interests of the public health and convenience, to continue these hospitals as necessary institutions of our Federal Government in the performance of the efficient and humanitarian functions for which they are especially adapted and fitted because of location, equipment, and personnel, as clearly demonstrated by their long record of public service; and be it further

Resolved, That copies of these resolutions be forwarded forthwith by the secretary of the Commonwealth to the President of the United States, to the presiding officers of both branches of Congress, and to the Members thereof representing this Commonwealth.

In senate, adopted May 11, 1933.

IRVING N. HAYDEN, *Clerk.*

A true copy.
Attest:

F. W. COOK,
Secretary of the Commonwealth.

The VICE PRESIDENT also laid before the Senate the following joint resolution of the Legislature of the State of California, which was referred to the Committee on the Judiciary:

STATE OF CALIFORNIA,
DEPARTMENT OF STATE.

I, Frank C. Jordan, secretary of state of the State of California, do hereby certify that I have carefully compared the transcript, to which this certificate is attached, with the record on file in my office of which it purports to be a copy, and that the same is a full, true, and correct copy thereof. I further certify that this authentication is in due form and by the proper officer.

In witness whereof I have hereunto set my hand and have caused the great seal of the State of California to be affixed hereto this 9th day of May 1933.

[SEAL]

FRANK C. JORDAN,
Secretary of State.
By CHAS. J. HAGERTY,
Deputy.

Senate Joint Resolution 22

Adopted in senate May 4, 1933.

J. A. BEEK,
Secretary of the Senate.

Adopted in assembly May 4, 1933.

ARTHUR A. OHNIMUS,
Chief Clerk of the Assembly.

This resolution was received by the Governor this 8th day of May A.D. 1933, at 4 o'clock p.m.

WM. A. SMITH,
Private Secretary of the Governor.

Chapter 66

Senate Joint Resolution No. 22, relative to memorializing Congress to exempt from the provisions of legislation limiting hours of labor to 30 hours a week people engaged in the mining industry

Whereas there is now pending before the Congress of the United States a bill introduced by Senator BLACK, known as S. 158, requiring the hours of labor of all persons to be limited to 30 hours per week; and

Whereas it is the opinion of this legislature that persons engaged in the gold-mining industry should be exempt from the provisions of such a bill by reason of the peculiar circumstances surrounding the operation of that industry: Now, therefore, be it

Resolved by the Senate and Assembly of the State of California, jointly, That the Congress of the United States be and it is hereby urgently requested and memorialized to adopt amendments to Senate bill 158, introduced by Mr. BLACK, so that all persons engaged in the mining industry will be exempt from the operation of such a bill and will not be restricted in any manner as to the number of hours during which the mining industry may be carried on and conducted; and be it further

Resolved, That the Governor is requested to forward a copy of this resolution to the President and Vice President of the United States, the Speaker of the House of Representatives, and to each Member from the State of California in Congress.

FRANK F. MERRIAM,
President of the Senate.
WALTER J. LITTLE,
Speaker of the Assembly.

Attest:
[SEAL]

FRANK C. JORDAN,
Secretary of State.

Endorsed: Filed in the office of the secretary of state of the State of California, May 8, 1933, at 5 o'clock p.m.

FRANK C. JORDAN,
Secretary of State.
By CHAS. J. HAGERTY,
Deputy.

The VICE PRESIDENT also laid before the Senate the following memorial of the Legislature of the State of Florida, which was referred to the Committee on the Judiciary:

House Memorial 3

A memorial to the Congress of the United States requesting the passage of House Resolution 3083

Whereas a large percentage of the municipalities and other taxing districts within the State of Florida are hopelessly insolvent, due to the amount of bonds issued by said municipalities and other taxing districts within the State of Florida; and

Whereas said municipalities and other taxing districts are without sufficient sources of revenue to pay off and discharge the bonded indebtedness owing by the respective municipalities and other taxing districts; and if it were undertaken to levy a sufficient tax against the properties located within said respective municipalities and taxing districts, and enforce the collection of same, it would amount to a confiscation of the properties located within said municipalities or other taxing districts: Now, therefore, be it

Resolved by the Legislature of the State of Florida, That the Congress of the United States of America is hereby respectfully petitioned and requested to pass House Resolution No. 3083, introduced in the House of Representatives on March 11, 1933, by the Honorable J. MARK WILCOX, and a companion measure introduced in the Senate by the Honorable DUNCAN U. FLETCHER, and that the secretary of the State of Florida be directed to transmit a copy of this memorial under the great seal of the State to the President of the United States, and to the United States Congress, and to the Members of Congress from the State of Florida.

Approved by the Governor of Florida May 12, 1933.

STATE OF FLORIDA,
Office Secretary of State, ss:

I, R. A. Gray, secretary of state of the State of Florida, do hereby certify that the foregoing is a true and correct copy of House Memorial No. 3, as passed by the Legislature of Florida, session 1933, and filed in this office.

Given under my hand and the great seal of the State of Florida at Tallahassee, the capital, this the 15th day of May A.D. 1933.

[SEAL]

R. A. GRAY, *Secretary of State.*

The VICE PRESIDENT also laid before the Senate a resolution adopted by the Waco (Texas) Chamber of Commerce, endorsing the program of President Roosevelt, and favoring the inauguration of a public-works program providing highway construction in the State of Texas, which was referred to the Committee on Education and Labor.

He also laid before the Senate two letters in the nature of memorials from citizens of the State of Louisiana, endorsing Hon. HUEY P. LONG, a Senator from the State of Louisiana, condemning attacks made upon him and remonstrating against a senatorial investigation of his alleged acts and conduct, which were referred to the Committee on the Judiciary.

He also laid before the Senate a petition of sundry citizens of New Orleans, La., praying for the passage of legislation establishing a 30-hour workweek of not more than 6 hours per day, with a flexible provision permitting the employment of a worker for not more than 40 hours per week or 8 hours per day during a period not to exceed 10 weeks in a year in cases of extraordinary need, which was referred to the Committee on the Judiciary.

He also laid before the Senate resolutions adopted by the Hoboken National Memorial Association, of Hoboken, N.J. (endorsed by other organizations of Hudson County, N.J.), favoring the adoption of measures setting aside a suitable plot of ground in Hoboken, N.J., at the entrance of the piers, now in control of the United States Shipping Board, as a national memorial to commemorate the egress and ingress of the sons and daughters of the Nation who left for Europe or returned through this portal during the World War, which were referred to the Committee on the Library.

He also laid before the Senate resolutions adopted by Vincent B. Costello Post, No. 15, the American Legion, department of the District of Columbia, favoring a recess only rather than an adjournment of Congress after the conclusion of pending business " because of the serious probability that during the period from June to next January there will be a real need and demand from the country for the repeal, modification, or possible extension of the authority of the President of the United States, and in such event it is important that the Congress be able to take necessary action immediately and independently of the wishes or views of the Chief Executive should he fail to call another special session ", which was ordered to lie on the table.

Mr. ROBINSON of Indiana presented a petition of sundry citizens of the State of California, praying that Congress restore to service-connected disabled veterans their former benefits, rights, privileges, ratings, schedules, compensation, presumptions, and pensions, which was referred to the Committee on Finance.

Mr. COPELAND presented a memorial of sundry citizens, being employees of the post office at Plattsburg, N.Y., remonstrating against the passage of legislation providing for the compulsory retirement of Federal employees who have served for 30 years or reached the age of 60 years, which was referred to the Committee on Appropriations.

He also presented resolutions adopted by the Westchester County (N.Y.) District Council of the United Brotherhood of Carpenters and Joiners of America, favoring the passage of legislation providing for a 6-hour working day, which were referred to the Committee on Education and Labor.

He also presented a resolution adopted by Progressive Council, No. 66, Sons and Daughters of Liberty, of Freeport,

N.Y., favoring the passage of the so-called "Dies bill", providing a fixed quota for the admission of alien immigrants to the United States, which was referred to the Committee on Immigration.

He also presented resolutions adopted by the executive board of Retail Jewelers' Associations of Greater New York, N.Y., favoring the passage of legislation designed to permit trade associations to promulgate fair rules for economic industrial production and distribution, which were referred to the Committee on the Judiciary.

REGULATION OF BANKING

Mr. GLASS, from the Committee on Banking and Currency, submitted a report (No. 77) to accompany the bill (S. 1631) to provide for the safer and more effective use of the assets of Federal Reserve banks and of national banking associations, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes, heretofore reported by him from that committee with amendments.

REPORT OF A COMMITTEE—ASSISTANT CLERK TO THE COMMITTEE ON PATENTS

Mr. BYRNES, from the Committee to Audit and Control the Contingent Expenses of the Senate, to which was referred the resolution (S.Res. 63) authorizing the Committee on Patents to employ an assistant clerk during the Seventy-third Congress, reported it without amendment.

BILLS INTRODUCED

Bills were introduced, read the first time, and, by unanimous consent, the second time, and referred as follows:

By Mr. WHEELER:

A bill (S. 1710) to authorize appropriations for the completion of the public high school at Frazer, Mont.; and

A bill (S. 1711) for the relief of certain homeless Indians in the State of Montana, and for other purposes; to the Committee on Indian Affairs.

(Mr. WAGNER introduced Senate bill 1712, which was referred to the Committee on Finance, and appears under a separate heading.)

By Mr. LA FOLLETTE:

A bill (S. 1713) for the relief of Wayne Bert Watkins; to the Committee on Naval Affairs.

By Mr. COPELAND:

A bill (S. 1714) granting an increase of pension to Kate O'Donnell Wood; to the Committee on Pensions.

A bill (S. 1715) authorizing Charles V. Bossert, his heirs and assigns, to construct, maintain, and operate a bridge across the East River between Bronx and Whitestone Landing; to the Committee on Commerce.

By Mr. REED:

A bill (S. 1716) for the relief of Leonard J. Mygatt; to the Committee on Military Affairs.

By Mr. McNARY:

A bill (S. 1717) to extend the provisions of the Forest Exchange Act to lands adjacent to the national forests in the State of Oregon; to the Committee on Public Lands and Surveys.

CHANGE OF REFERENCE OF A RESOLUTION

On motion of Mr. KING, the Committee to Audit and Control the Contingent Expenses of the Senate was discharged from the further consideration of the resolution (S.Res. 79) authorizing an additional expenditure in connection with a general survey of Indian conditions in the United States, and it was referred to the Committee on Indian Affairs.

HOUSE BILLS AND JOINT RESOLUTION REFERRED

The following House bills and joint resolution were severally read twice by their titles and referred as indicated below:

H.R. 5091. An act to amend section 289 of the Criminal Code; and

H.R. 5208. An act to amend the probation law; to the Committee on the Judiciary.

H.R. 5329. An act creating the St. Lawrence Bridge Commission and authorizing said commission and its successors to construct, maintain, and operate a bridge across the St. Lawrence River at or near Ogdensburg, N.Y.; ordered to be placed on the calendar.

H.R. 5152. An act granting the consent of Congress to the State Highway Commission of Virginia to replace and maintain a bridge across Northwest River, in Norfolk County, Va., on State Highway Route No. 27;

H.R. 5173. An act granting the consent of Congress to the State Highway Commission of Virginia to maintain a bridge already constructed to replace a weak structure in the same location, across the Staunton and Dan Rivers, in Mecklenburg County, Va., on United States Route No. 15;

H.R. 5476. An act to extend the times for commencing and completing the construction of a bridge across the Savannah River at or near Burtons Ferry, near Sylvania, Ga.; and

H.J.Res. 159. Joint resolution granting the consent of Congress to a compact or agreement between the State of Kansas and the State of Missouri authorizing the acceptance for and on behalf of the States of Kansas and Missouri of title to a toll bridge across the Missouri River from a point in Platte County, Mo., to a point at or near Kansas City, in Wyandotte County, Kan., and specifying the conditions thereof; to the Committee on Commerce.

REGULATION OF BANKING

Mr. BULKLEY. Mr. President, I ask for a vote on my motion that the Senate proceed to the consideration of Senate bill 1631, the Glass banking bill.

The PRESIDING OFFICER (Mr. ROBINSON of Arkansas in the chair). The question is on the motion of the Senator from Ohio that the Senate proceed to the consideration of Senate bill 1631.

Mr. McNARY. Mr. President, when the motion was made last evening I objected to the consideration of the bill upon the theory that I desired, and many Members of the Senate desired, further time in which to study the provisions of the Glass bill. I also made the observation that in my opinion expedition would be made in the trial of the impeachment case if our sessions were continued, and we kept that subject matter constantly before the attention of the Senate; not only that but in the interest of economy.

When the Senator from Ohio made his motion after my statement, at the suggestion of the Senator from Arkansas [Mr. ROBINSON] it was decided that the matter should go over until today, in order that I might have an opportunity to confer with the Senator from Virginia, the author of the proposal. I had a conference with the Senator from Virginia today. I suggested to him that in my opinion we should go along and finish the trial. He expressed a desire to get rid of his bill, and said that he did not want it delayed too long a time. I then suggested that we devote the remainder of this week to the trial, and stated that in my opinion if that were done we probably could conclude the trial between now and Saturday.

He seemed to appreciate that suggestion, and we had this understanding—I am sorry he is not here, but I want to tell the Senator from Ohio what the understanding is. I said that I should have no objection if he insisted on making his bill the unfinished business today, because I knew that he had the votes by which it could be done, with the understanding that we should go forward with the trial without taking up the bank bill this week. He agreed to that, but made the statement that if there should be any break or pause in the trial of the impeachment case, he might come in with his bill.

I will state to the able Senator from Ohio that I want that understanding to go into the RECORD in the absence of the Senator from Virginia.

Mr. BULKLEY. Mr. President, I am sure the Senator from Virginia is very anxious to get the status of unfinished business for the Glass banking bill. Whatever assurance he has given the Senator from Oregon with respect to pressing the bill will, of course, be carried out. I do not know exactly what the Senator from Virginia has said from his own statement. I of course accept what the Senator from Oregon relates as to his conversation.

Mr. McNARY. I am sure there is no difference of opinion between us. I regret the Senator's absence, but I am sure he will confirm that understanding, namely, that if the status of unfinished business is given to this bill there will be no effort to take it up pending the trial of the impeachment proceeding unless there should be a pause or an interruption in the impeachment trial.

Mr. BULKLEY. Certainly the Senator from Virginia has not said anything to me that is not consistent with that.

Mr. McNARY. Very well. I am sure that is the understanding, and for that reason I shall not oppose the motion of the Senator from Ohio.

The PRESIDING OFFICER. The question is on the motion of the Senator from Ohio.

The motion was agreed to; and the Senate proceeded to the consideration of the bill (S. 1631) to provide for the safer and more effective use of the assets of Federal Reserve banks and of national banking associations, to regulate interbank control, to prevent the undue diversion of funds into speculative operations, and for other purposes, which had been reported from the Committee on Banking and Currency with amendments.

The PRESIDING OFFICER. Does the Senator from Ohio request that the unfinished business be temporarily laid aside?

Mr. BULKLEY. I make that request.

The PRESIDING OFFICER. Without objection, that will be done.

ASSISTANT CLERK TO THE COMMITTEE ON PATENTS

Mr. WAGNER. Mr. President, the Committee to Audit and Control the Contingent Expenses of the Senate today reported unanimously a resolution authorizing the appointment of an assistant clerk to the Committee on Patents. I ask that it may be considered at this time.

Mr. McNARY. I have no objection.

The PRESIDING OFFICER. The Senator from New York asks unanimous consent for the present consideration of a resolution, which will be read.

The Chief Clerk read Senate Resolution 63, submitted by Mr. WAGNER on April 28, 1933, and it was considered by the Senate and agreed to, as follows:

Resolved, That the Committee on Patents hereby is authorized to employ an assistant clerk to be paid from the contingent fund of the Senate at the rate of $2,400 per annum during the Seventy-third Congress.

SALARY SCHEDULES OF BANKS, PUBLIC UTILITIES, ETC.

Mr. COSTIGAN. Mr. President, yesterday I called up Senate Resolution 75. The Senator from Oregon [Mr. McNARY] at that time objected to its immediate consideration. May I ask the courteous Senator whether at this time he has any objection to the consideration of the resolution?

Mr. McNARY. Mr. President, personally I have no objection, but I am sorry the Senator did not earlier in the day make his request, when there was a larger number of Senators present. I think he had better let the matter go now until tomorrow, and I suggest that the first thing tomorrow he make his request, because I am not able now, because of the absence of many Senators, to consent.

Mr. COSTIGAN. Mr. President, I desire to give notice that at the appropriate time, if further objection is made to the consideration of the resolution, it is my intention to move that the resolution be taken up by the Senate.

EXECUTIVE SESSION

Mr. GEORGE. Mr. President, I move that the Senate proceed to the consideration of executive business.

The motion was agreed to; and the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. Reports of committees are in order. If there be no reports of committees, the calendar is in order.

THE CALENDAR

The Chief Clerk announced Executive C, Seventy-second Congress, second session, a treaty between the United States and the Dominion of Canada for the completion of the Great Lakes-St. Lawrence deep waterway, signed on July 18, 1932, as first in order on the calendar.

The PRESIDING OFFICER. The treaty will be passed over.

DEPARTMENT OF LABOR

The Chief Clerk read the nomination of Charles Wyzanski, Jr., of Massachusetts, to be Solicitor of Labor.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

DEPARTMENT OF THE INTERIOR

The Chief Clerk read the nomination of Fred W. Johnson, of Wyoming, to be Commissioner of the General Land Office.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

THE JUDICIARY

The Chief Clerk read the nomination of George E. Hoffman, of Florida, to be United States attorney, northern district of Florida.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

That completes the calendar.

Mr. GEORGE. Mr. President, I move that the Senate resume the consideration of legislative business.

The motion was agreed to; and the Senate resumed legislative session.

DEATH OF REPRESENTATIVE CHARLES HILLYER BRAND, OF GEORGIA

The Chair lays before the Senate resolutions of the House of Representatives, which will be read.

The Chief Clerk read as follows:

House Resolution 147

Resolved, That the House has heard with profound sorrow of the death of Hon. CHARLES H. BRAND, a Representative from the State of Georgia.

Resolved, That a committee of two Members of the House, with such Members of the Senate as may be joined, be appointed to attend the funeral.

Resolved, That the Sergeant at Arms of the House be authorized and directed to take such steps as may be necessary for carrying out the provisions of these resolutions and that the necessary expenses in connection therewith be paid out of the contingent fund of the House.

Resolved, That the Clerk communicate these resolutions to the Senate and transmit a copy thereof to the family of the deceased.

Resolved, That as a further mark of respect this House do now adjourn.

Mr. GEORGE. I send to the desk resolutions which I ask to have read and immediately considered.

The resolutions (S.Res. 81) were read, considered by unanimous consent, and unanimously agreed to, as follows:

Resolved, That the Senate has heard with profound sorrow the announcement of the death of Hon. CHARLES HILLYER BRAND, late a Representative from the State of Georgia.

Resolved, That a committee of two Senators be appointed by the Vice President to join the committee appointed on the part of the House of Representatives to attend the funeral of the deceased Representative.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit a copy thereof to the family of the deceased.

The PRESIDING OFFICER. Under the second resolution, the Chair announces the appointment of the senior Senator from Georgia [Mr. GEORGE] and the junior Senator from Georgia [Mr. RUSSELL] as members of the committee on the part of the Senate.

Mr. GEORGE. Mr. President, as a further mark of respect to the memory of the deceased Representative I move that the Senate do now take a recess until the conclusion of the session of the Senate sitting as a Court of Impeachment on tomorrow.

The motion was unanimously agreed to; and (at 4 o'clock and 50 minutes p.m.), the Senate took a recess until the conclusion of the proceedings of the Senate sitting as a Court of Impeachment on tomorrow, Thursday, May 18, 1933, the hour of meeting of the Senate sitting as a Court of Impeachment being 10 o'clock a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate May 17 (legislative day of May 15), 1933

SOLICITOR OF LABOR

Charles Wyzanski, Jr., to be Solicitor of Labor.

COMMISSIONER OF THE GENERAL LAND OFFICE

Fred W. Johnson to be Commissioner of the General Land Office.

UNITED STATES ATTORNEY

George E. Hoffman, to be United States attorney, northern district of Florida.

HOUSE OF REPRESENTATIVES

WEDNESDAY, MAY 17, 1933

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D.D., offered the following prayer:

Our Heavenly Father, Thou who art crowned with glory and dominion, with infinite love and compassion toward all men and nations, Thou art our God. At Thy feet we lift our hearts and pray for that day for which the prophets, the apostles, and the martyrs labored and died, and for which we long and wait. O sacred moment, O hallowed spot! Lord God of hosts, the heart of the world has been made a common, a crimsoned, and a bloody roadway for man's inhumanity to man. O it must not murder, it must not rob, it must not leave in misery any of Thy children of whatever land or race. Hear us for its redemption from the barbarities and the cruelties of warfare. Awaken the whole earth from its nightmare of wrath and hate and from its threatened quicksand of destruction and ruin. Be Thou, Almighty God, a bountiful Providence to our President as he seeks to hold the gates, and put into the skies of all lands the star of hope and the bow of promise. O breath of the Most High, breathe upon him and our country. Reign, reign, Thou art the King of Kings and the Lord of Lords, and unto Thee be eternal praises. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate, by Mr. Horne, its enrolling clerk, announced that the Senate had agreed to the report of the Committee of Conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 5081) entitled "An act to provide for the common defense; to aid interstate commerce by navigation; to provide flood control; to promote the general welfare by creating the Tennessee Valley Authority; to operate the Muscle Shoals properties; and to encourage agricultural, industrial, and economic development."

The message also announced that the Senate disagrees to the amendments of the House to the bill (S. 753) entitled "An act to confer the degree of bachelor of science upon graduates of the Naval Academy", requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. TRAMMELL, Mr. RUSSELL, and Mr. HALE to be the conferees on the part of the Senate.

MUSCLE SHOALS

Mr. McSWAIN. Mr. Speaker, I call up the conference report on the bill (H.R. 5081) to provide for the common defense; to aid interstate commerce by navigation; to provide flood control; to promote the general welfare by creating the Tennessee Valley Authority; to operate the Muscle Shoals properties; and to encourage agricultural, industrial, and economic development, and ask unanimous consent that the statement be read in lieu of the report.

The SPEAKER. The gentleman from South Carolina asks unanimous consent that the statement of the managers be read in lieu of the report. Is there objection?

There was no objection.

The Clerk read the statement.

The conference report and statement are as follows:

CONFERENCE REPORT

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 5081) to provide for the common defense; to aid interstate commerce by navigation; to provide flood control; to promote the general welfare by creating the Tennessee Valley Authority; to operate the Muscle Shoals properties; and to encourage agricultural, industrial, and economic development, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows: In lieu of the matter inserted by the Senate insert the following:

"That for the purpose of maintaining and operating the properties now owned by the United States in the vicinity of Muscle Shoals, Ala., in the interest of the national defense and for agricultural and industrial development, and to improve navigation in the Tennessee River and to control the destructive flood waters in the Tennessee River and Mississippi River Basins, there is hereby created a body corporate by the name of the 'Tennessee Valley Authority' (hereinafter referred to as the 'Corporation'). The board of directors first appointed shall be deemed the incorporators, and the incorporation shall be held to have been effected from the date of the first meeting of the board. This act may be cited as the 'Tennessee Valley Authority Act of 1933.'

"SEC. 2. (a) The board of directors of the Corporation (hereinafter referred to as the 'board') shall be composed of three members, to be appointed by the President, by and with the advice and consent of the Senate. In appointing the members of the board, the President shall designate the chairman. All other officials, agents, and employees shall be designated and selected by the board.

"(b) The terms of office of the members first taking office after the approval of this act shall expire as designated by the President at the time of nomination, 1 at the end of the third year, 1 at the end of the sixth year, and 1 at the end of the ninth year, after the date of approval of this act. A successor to a member of the board shall be appointed in the same manner as the original members and shall have a term of office expiring 9 years from the date of the expiration of the term for which his predecessor was appointed.

"(c) Any member appointed to fill a vacancy in the board occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term.

"(d) Vacancies in the board so long as there shall be 2 members in office shall not impair the powers of the board to execute the functions of the Corporation, and 2 of the members in office shall constitute a quorum for the transaction of the business of the board.

"(e) Each of the members of the board shall be a citizen of the United States, and shall receive a salary at the rate of $10,000 a year, to be paid by the Corporation as current expenses. Each member of the board, in addition to his salary, shall be permitted to occupy as his residence one of the dwelling houses owned by the Government in the vicinity of Muscle Shoals, Ala., the same to be designated by the President of the United States. Members of the board shall be reimbursed by the Corporation for actual expenses (including traveling and subsistence expenses) incurred by them in the performance of the duties vested in the board by this act. No member of said board shall, during his continuance in office, be engaged in any other business, but each member shall devote himself to the work of the Corporation.

"(f) No director shall have financial interest in any public-utility corporation engaged in the business of distributing and selling power to the public nor in any corporation engaged in the manufacture, selling, or distribution of fixed nitrogen or fertilizer, or any ingredients thereof, nor